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EIRENARCHA,

OR
OF THE OFFICE
of the Iustices of Peace, in
four Bookes:

*Revised, corrected, and enlarged,
in the eighth yeere of the
peaceable Raigne of our most
gracious King
James.*

First collected by WILLIAM LAMBARDE of Lincolnes Inne Gent.

Ha tibi erunt artes, pacque imponere morem.

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THE PROHEME.

The write of the Office
& dutie of Iustices of the
Peace, after M. Mar-
row (whose learned rea-
ding in that behalfe,
made 18. yeare of King
H. 7. is in many hands
to be seen) and after the
reuerend Iustice Fitzherbert, (who published
an excellent treatise thereof, which is yet eu-
ery where to bee had) may at the first seeme no
lesse vnadvisedly done, then if a man should
bring Owles to Athens, (as the proverbe is) or
to carry stickes into a growing wood or copse.
Nevertheless, if it bee considered, that since
their time, this Office is charged with many
Statutes, which were not made when their
writings were penned: and if it bee weighed
also, that sundry things in them had then the
force of Law, which now at this day they haue
lost by alteration of like authoritie: It cannot
bee thought altogether in vaine, to confer their
writings with the Booke Cases, and Statutes

that haue arisen of later times, and out of them all to collect some one body of discourse, that may serue for the present age wherein we now liue, and somewhat further the good endeouour of such gentlemen, as bee not trained vp in the continuall study of the Lawes.

In which doing, as I meane to rob no man of his right, but to yeeld to each one the due praise of his owne, least (as the Poet said)

Moneat Cornicula risum,

Furtimis nudata coloribus:

So, if I my selfe shalbe found here and there to dissent in opinion from other men, I desire that my good meaning be not euill interpreted, that my allegations and reasons be weighed indifferently, and that the respect of my person bzing no pzeiudice to the thing in question.

The diuision
of this worke.

The whole labour I haue thought good (for helpe of the Readers memory) to bzeake into foure seuerall Bookes, intending to spend the first in a summary consideration, & Theorique of the whole Office belonging to this Iustice: and in the other three to set forth the whole practise of the same, as well at home, as at the Sessions: dealing in the second, with those causes which one Iustice alone; and in the third, with those which moe Iustices may vndertake without the helpe of the Sessions of the peace: and in the fourth, handling such matters, as haue regard onely to those Sessions.

The

THE FIRST BOOKE

Conteining a Theorique (or insight)
of the Office of the Iustices
of Peace.

What Iustices of the Peace be, and why
they are called Iustices.

CAP. I.



IUSTICES of the
Peace, be Iudges of Re-
cord, appointed by the
king to be Iustices with
in certain limits, for the
conseruatiō of the peace,
and for the erecution of
sundry things compe-

*A definition
(or descrip-
tion) of Iustices
of the peace.*

hended in their Commission, & in diuers lawes
committed vnto their charge.

These and many other Iudiciall officers in
our lawe, be called Iustices (*per Metonymiā sub-
iecti*) because they doe (or should doe) Lawe, and
Iustice. For in many old Histories, the chiefe
Iustice of England is tearmed *Capitalis Iustitia*,
and *Prima (post Regem) in Anglia Iustitia*: and
the originall Writts that are in H. Glanvilles
Booke (which was written vnder the reigne of
R. H. 1.) haue this forme, *quod sit coram me, vel
Iusticijs meis*: And this (no doubt) was done of

*why they bee
called Iusti-
ces.*

especiall purpose, and to the end, that the mention of their name, should put them in mind of their office, and should continually (as it were) sollicite them to administer Justice, for whose sake they were appointed.

But in the dayes of B. H. 3. M. Bract. (who reduced the body of our Law into Latine, and therein imitated the methode of the Civil Lawyers) changed the word *Iustitius* into *Iustitiarius*, (how Latine like, let them iudge that can skill) and setteth downe the Writs accordingly, *Coram Iustitiariis nostris*. Since which time, not only all our Writs that command appearance before the Iustices at Westminster, do vse the word *Iustitiarius*, but all Commissions of Sewers of the peace, of Oyer and Terminer, and such like, doe obserue the same forme also.

And of this it commeth, that P. Fitzherbert (in his Treatise of the Iustices of Peace) calleth them Iusticers, (contractly for Iusticiars) and not Iustices, as wee commonly, (and not altogether vnproperly) doe name them.

Of the signification of this word,
Peace.

CAP. II.

Of the Latin word *Pax*, the Normans Peace hath framed their *Paix*, & we (out of that) many significations. our peace: y^e which hath sundry significations both in y^e holy scripture of God, and in the lawes of our Country: for there is an inward and an outward peace. And this inward peace, is either good, or euill: first then, there is *pax apud Deum*, that is to say, our reconciliation made with God the Father, by the obedience of Christ his sonne our Saviour: for he is *pax nostra*, and hath appeased the wrath of God for our sinnes.

Out of this proceedeth another inward peace named the peace of Conscience, so that our conscience is (by faith in Christ) at peace both with God and it selfe. The euill inward peace is that same mundane peace, whereof our Saviour Christ spake, saying: *Pacem do vobis, non quemadmodum mundus dat*. And this peace y^e kingly Prophet David calleth *Pacem peccatorum*, because it is no better then carnall security.

The outward Peace, hath respect to other men, & that is of two sorts also: the one is opposed (or set) against all manner of striving and contention, whether it bee in countenance, gesture, word, or worke: of the which S. Paul

spake to the Romans in these words, *Si seripotes, quantum in vobis est, cum omnibus hominibus pacem habetote*: And in the same meaning, the latine men say, *Pace tua*, By your good leaue, or fauor, without your offence or displeasure. The other is ouely an abstinence from actuall force, and offer of violence, and is rather contrarie to *arma, praelium, and bellum*, (which cannot be without force or armies) then it is to *his, pugna, or certame*, which (as Laurence Valla cōfesseth) may be *nudis verbis, & citra arma*. And heereof also our Saviour Christ spake, when hee said, *Non veni, ut mitterem pacem sed gladium*.

Peace in our Law.

The Law of our Realme likewise vseth the word Peace diuersly, but yet so, as it is altogether occupied about these outward Peaces. For as Cicero said of frauds, *Aliiter leges, aliter Philosophi, tollunt astutias: leges quatenus mantere res possunt, Philosophi quatenus ratione & intelligentia*: euen so may I truly affirme, that (in this matter of Peace) the Law of God (which is the only true Philosophy) respecteth the minde and Conscience, although the lawes of men doe looke but to the body, hands, and weapons.

Sometimes therefore the word Peace is taken for Protection, or defence: as where Mr. Bracton calleth the writs of Protection, *Brenia de pace*: Sometimes (as it seemeth to me) it is taken of Rights, Priuiledges, & Liberties, as in the oath of the King at his Cozonation, hee sweareth

fiuere *seruare Ecclesie Dei, Cleri, & populi,*
pacem ex integro: the meaning wherof is, (as I
suppose) that he wil maintaine each degree and
estate of his subjects, as well Ecclesiastical, as
Temporall (for *populus* there comprehendeth al
the Laitie) according to their senerall customes
Lawes and priuiledges.

And sometimes it is taken for a withhold-
ing (or abstinence) from that iniurious force
and violence wherof I spake before. And this
is that which is most commonly vnderstood by
the word Peace, in our Law: and for the main-
tenance heercof, chiefly were these Wardens
and Iustices of the Peace, first made and au-
thorised.

For, Iustices of the Peace were not ordain-
ed (as some haue thought) to the ende to re-
duce the people to an vniuersall vnanimitie
(or agreement of mindes) which is indeed a
thing rather to be wished for, then to bee hoped
after: Neither is it any part of their office, to
forbid lawfull suites and controuersies (which
neuerthelesse be disagreements of mindes) but
to suppress iniurious force and violence, mo-
ued against the person of a man, his goods, or
possessions.

And that this may appeare to be the minde
of that King which first created these Wardens
or Iustices of the Peace (I meane King Ed-
ward the third) let mee shewe you the very
Writ that hee (in the first yeare of his raigne,
and

Writ
did

Peace by
Iustices of
the peace.

and not many weekes before the Parliament, in which the Gardeins of the Peace, who afterward obtained the name of Iustices of the Peace. were first ordained) did send to the Sherifes of all the Shires in England, bearing this forme.

Th. Walsingham in histo.
pag. 107.

EDwardus, Dei gratia Rex Angliae, Dominus Hyberniae, Dux Aquitaniae, Viscomes Cantuariensis salutem. Quia Dom. Edwardus, nuper Rex Angliae, pater noster, de communi assensu Prelatorum, Comitum, Baronum, & aliorum Magnatum, necnon Communitatum totius regni predicti spontanea voluntate se amovit a regimine dicti regni, volens et concedens quod nos (tanquam ipsius primogenitus & haeres) ipsius regni gubernationem & Regimen assumamus: Nosque ipsius patris beneplacito in hac parte, de consilio & auctoritate Prelatorum, Comitum, & Baronum predictorum annuentes, gubernacula suscepimus dicti regni, & fidelitates & homagia ipsorum Prelatorum & Magnatum recipimus, ut est moris: Desiderantes igitur pacem nostram pro quiete & tranquillitate populi nostri inviolabiliter observari, Tibi precipimus, quod statim (visis presentibus) per totam Balliviam tuam Pacem nostram facias publice proclamari, universis & singulis ex parte nostra inhibendo sub pena & periculo exhereditationis & amissionis vite & membrorum, ne quis dictam Pacem nostram infringere seu violare presumat: sed quilibet actiones & querelas absque violentia quacunque prosequatur, secundum leges & consuetudines regni nostri: nos enim para-

*ti sumus, & semper erimus, omnibus & singulis con-
querentibus, tam diuitibus quam pauperibus, in curijs
nostris plenam iustitiam exhibere. Teste meipso Calē-
da February, die dominica, in vigilia Purificat. &c.*

This **Writ** I haue the rather chosen to set
downe at large, because it containeth a saye
shewe of a fowle shift, I meane his attaining
to the Crowne, by the depriuation of his owne
father.

But (for the present purpose) by this **Writ**
it is manifestly declared, that the Peace which
he meant was not an uniting of mindes, but a
restraining of hands: which is (in a maner) all
one with that which Iullic writteth in his Or-
ation *pro Sextio*, where he setteth *Vis* and *Ini-*
one against the other: and it agreeth wel with
that description and diuision of *Vis*, which M.
Bacon maketh (*lib. 4. ca. 4.*) saying, *Vis est quo-*
tiens quis (quod sibi deberi putat) non per Iudicē re-
poscit: Est autē interdum armata, interdū inermis.
According to the which meaning also, the olde
Statute of Westminster the first (*cap. 1.*) sayd,
Let the peace of the Land be maintained in all
points: and common right be done to all as well
poore as rich: Thereupon likewise saith the
Statute (*1. R. 2. c. 2.*) Let the peace be well and
surely kept, that the Kings subiects may safely
go, come, and abide, according to the law of the
Realme: and that Iustice and right bee indiffe-
rently ministred to euery subiect.

Finally, the statutes of *2. R. 2. cap. 4.* *1. H. 4.*
cap.

cap. 1. and 7. H. 4. cap. 1. doe all (in plaine speech) couple the maintenance of the Peace, with the pursuing of suites, as things that may right well stand together. And therefore, I conclude, that this furious gesture, and beastly force of body, or hands (and not every contention, suite, and disagreement of minds) is the proper subiect and matter, about which the Office of the Iustices of the peace is to be exercised.

Iustices of
the Peace, bee
meer to pacifie
sutes.

Howbeit I write not this, as though I would not haue a Iustice of the peace to occupie himselfe also in pacifying the suites and Controuersies, that doe arise amongst his neighbours: Yea, rather I wish him to bee, as well *ἱσχυριστὴς* as *ἀνιδρυχτὴς*, a Compounder, as a Commisioner of the peace: and I thinke him so much the meetter to stepp in betwixt those that bee at variance, as (by reason of his learning, wisdom, authoritie, and wealth) hee is like to preuaile more by his mediation and intreatie, then is another man. But yet, as it is not all one, to speake of his proper office in law, and of his common duty in Charitie: So I thought good (for learning sake) to seuer and distinguish them in this Treatie.

Of such as had the Conseruation of
the Peace at the Common
Lawe.

C A P. III.

As the Common Law hath (euen from
the beginning) continued a speciall
care for the Conseruation of this
Peace: so did it not want meet Of-
ficers (before that these Wardens or Iustices of
the Peace were made,) to whose charge it did
recommend the maintenance of the same: And
for as much as it will giue no small light to the
vnderstanding of the office of the present Iu-
stices of Peace, to haue that ancient authoritie
vnsolded, vpon the which this latter power is
(as it were vpon a stocke) set and ingrafted, I
will speake somewhat thereof, before I begin
with the other.

At the Common Law therefore, and before
the time of King Edward the third, there were
sundry persons that had interest in the keeping
of the peace. Of those, some had that charge as
incident to other offices which they did beare,
and so concluded within the same, that they
were neuertheles called by the names of their
other offices only: Some others had it simply,
as of it selfe, and were thereof named *Custodes
pacis*, Wardens or Conseruators of the peace.

Conseruators
of the Peace,

Again,

By other
Officers.

Againe, of these that had charge ouer the Peace, by the dignitie of their Offices, some had that power ouer all the Realme, and some others had it within certaine limittes onely: and both the'soerts after a diuers manner of dispensation, as in particularitie it shall appeare.

The Kings Maiesty then is (by his Office and dignitie royall) the principall Conservator of the peace within his dominions, & may giue authoritie to others to see the Peace kept, and to punish such as shall breake the same. But a Duke, Earle, or Baron, be no Conservators of the Peace: because those be no titles of Office, but of dignitie onely, as saith Marrow.

The Lord Chancello (or Lord Keeper of the great Seale,) the Lord Steward of England, the Lord Marshal and Constable of England, and euery Justice of the Kings Bench, haue (cloed in their Offices) a credit for conseruation of the Peace ouer all the Realme, and may atward Recepts, and take Recognisances for the peace, Marrow & Fitzherbert. And (by good opinion) the Lord Treasurer of England may well be added to the same numbe.

The Master of the Rolles also (by the iudgement of M. Marrow) is a generall Conservator of the peace by his office. But he maketh Pro-
cesses and taketh Recognisances thereupon, not as incident to his office, but by prescription.

The Justices of the Common Place, & Ba-
rons

cons of the Eschequer, be Conservators within speciall places onely: that is to say, within the precincts of their severall Courts. So also the Justices of Assises may award a man to prison that breaketh the Peace in their presence, and they may commaund the keeping of the peace vnder a paine, & that weapons bee taken from the Jurors or Witneses, that appeare before them, if any complaint be thereupon made: but as they be merely Justices of Assise, they can neither take sureties of the Peace, nor award any proccesse for it, Marrow.

The Justices of Gaole delivrie, may take suretie for the peace of a prisoner before them, that was committed for not finding suretie of the peace, Marrow.

The Coroners (saith Britton fol. 3.) be principall Conservators of the Peace within their Countie: and every Sheriffe is a Conservator of the peace within his Countie, as Judge Finneux affirmed, 12. H. 7. 17. And after him, 20. Fitzh. Nat. bre. fo. 81. where hee saith, That the Sheriffe may (upon request made, and without any writ sent unto him) commaund a man to find surety of the peace by Recognisance.

The Steward of the Parcellhouse, may take suretie of the peace by Recognisance also within the Werge by prescription: and the Constable, and Parthal of the Kings house, may see to the Conservation of the peace within the same house, Marrow.

The

The Stewards of the Sherifes tunc, the Steward in a Court, or the Steward in a Court of Py-powders, cannot grant Suretie of the peace, vntlesse it be by Description. But euery of them may commit him to ward, that shall make any affray in their presence, whilest they be in execution of their offices: which is more then the Steward & Suitsors in a Court Baron can do, Marr. But the first two of these may also take presentment of any offence against the peace.

To be short, euery Constable, petty Constable, Tithingman & Bozowhead, be Conseruators of the peace by their offices, within the limits of their hundredes, Townes, Tithings, & Bozoughs, 12. H. 7. 17. Fineux. And by the same reason our Bozholder in Kent, & their Thirdbozow in Warwickshire, be Conseruators also within their Bozowes. For Bozowhead, Bozholder, and Tithingman, bee thre severall names of one selfe same Office, and doe signifie The chiefe man of the free pledges within that Bozow, or Tithing. And whereas each thirdbozow onely hath a Constable, there the Officers be called Thirdbozowes.

These Constables were ordained (as it appeareth, 3. H. 4. 9. & 10. H. 4. & Firzh. fol. 172.) to keepe the Peace, & to repressse Felons, and might take Suretie of the peace (by obligation) if they found any man making an affray, or otherwise commit him to prison, vntill he should finde such Suretie.

I haue

I haue read also, that a Constable might (at the Common Law) haue bailed a suspect of felony by Obligation, because he was a Conseruator of the Peace: and that both hee and the Sherife lost this authoritie by the Statutes (3 H. 7. cap. 3. & 1. & 2. Ph. & Mar. cap. 13.) The which statutes, in giuing that power to Iustices of the Peace, doe (in the opinion of some men) take it from the Sherife and Constable, reported by Dalison Iustice.

Whitherto then, of such as had, and yet haue Simple Con- the charge of the Peace conueyed vnder their conseruatorie. other offices. Now as touching those that had the simple Office of Wardens (or Conseruatorie) of the Peace, it is to bee vnderstood, that they also were of two diuers sorts: y is to say, either Ordinary, or Extraordinary: and the Ordinary Ordinary Conseruatorie, were either by Prescription, Election, or Tenure.

A man may prescribe (saith P. Marrow) that By prescription hee and his Ancestors, or hee and they whose estate he hath in the Manor of Dale, haue bene Conseruatorie within the Hundred of Sale, either all the yeare, or only at one certaine time of the yeare. And as hee may prescribe in the power it selfe, so also may hee in the manner of the exercise of the same: as, that hee and they haue vsed to take Surety of peace by Obligation, Pledge, or Caution: and so also in the manner of the Processe therefore, as to Distreine, and to sell the distresse: Mar.

¶

But

But all this is to be doubted of, because that in the opinion of Brian and Pigot (21. E. 4. 67. & 22. E. 4. 35.) the Shariour of Dale cannot prescribe to be a Conservator, or to command surety of the peace, or to commit to prison for an assault in his presence untill such surety be found.

Furthermore, even as the Sherifes were anciently chosen, & as the Coroners yet be: So also certain persons were wont to be elected Conservators of the peace, in the full county before the Sherife: and of this kinde I my selfe have seen certaine Records (in Rotul. patent. de Anno 3. E. 1.) running in this course.

By election;

First, a writ to the Sherife of Norfolk, commanding him to chuse in his full County *unum hominem de prokioribus & potentioribus comitatibus suis, in custodem pacis.*

Then, another writ directed *ballivis & fidelibus* of the same County, giving unto them notice of the former Writ, to the end (as it seemeth) that the Baylives should warn the men of the Countie, and that they should appeare at the County Court, to make the Election.

And lastly, to the Conservators elected, this Writ following.

EDwardus, Dei gratia Rex Anglia, Dominus Hybernie, & Dux Aquitania, dilectis & fidelibus suis, Iohanni de Bretun salutem. Cum Vicecomes noster Norfolc. & communitas eiusdem comitatus elegerit vos in custodem pacis nostre ibidem: vobis mandamus, quod ad hoc diligenter intendatis, prout idem vice-

vicecomes vobis scribi faciet ex parte nostra, donec aliud inde precipimus. In cuius rei, &c. Datum per manus venerabilis patris F. Batho & Wellen. Episcopi, Cancellarij nostri, apud Cest. secundo die Septemb. Anno regni nostri quinto.

Touching the Conseruation of the peate by **By Tenure.**

Tenure of land, M. Marrow putteth this case: If the King grant vnto a man Lands to hold of him by knights seruice, and to be a Conseruator of the peace in a County, he is a Conseruator by Tenure: agreeable whereunto saith an Inquisition found at Chester, An. 4. E. 2. after the death of one Vrianus de Sancto Petro (inter alia) thus,

Quod idē Vrianus tenuit de domino rege in capite in dominico suo vt de feodo, die quo obiit, Medietatē Seriantia pacis, per seruitium inueniendi decem seruientes pacis ad custodiā pacis in Cest. pro qua quidē custodia antecessores sui percipere solebant xxx. solidos per annum ad Scaccarium Cest. pro Mantellis dictorem decem seruientium &c.

These sorts & some others (which M. Marrow reciteth, and which I, wanting Records to warrant them, doe omit) I call Ordinarie Conseruators of the Peace: because their authoritie was then Ordinarie, alwayes one, and the same well enough knowne: But the Extraordinary Conseruator, as he was indowed with an higher power, so was he not ordinarily appointed, but in the times of great troubles only, much Like as the Lieutenant's of Shires are now adayes.

Extraordi-
nary Conser-
uators,

And hee had the charge to defend the coastes and Countrey both from fozeine and inward enemies, & might commaund the Sherife and all the Shire, to aid and assist him : as it may well appeare by this Patent (remaiining of Record in the Tower) Rot. Patent. de An. 49. H. 3. made by that King, or rather in his name, by Simon Earle of Leicester, whose prisoner he then was.


Rex Iohanni de Plesset salutem: Cum nuper de consilio Magnatum, qui sunt de Consilio nostro, cōstituerimus vos custodem pacis nostra in comitatu Northumb. ac vos tam laudabiliter & circūspēctē in officio illo gesseritis, quod probitatem ac diligentiam vestrā merito duximus recomēdandam, & adhuc necesse sit (sicut intelleximus) quod ad tuitionem illarum partium & conservationem pacis nostra, eidē officio intendatis: vobis (de consilio Magnatum praedictorum) mandamus firmiter iniungētes, quatenus omnem diligentiam (quam poteritis) adhibeatis ad pacem nostram conservandā in partibus praedictis, in forma qua vobis alias iniunximus. Mandavimus enim vic. nostro Northumb. quod quotiens opus fuerit, & à vobis fuerit requisitus, cum toto posse sui comitatus, vobis ad hoc assistat. Nolumus autem, quod pretextu huius mandati nostri, de aliquibus (qua ad officium vic. pertinent) vos intromittatis, quo minus vic. de exitibus eiusdē comit' nobis plene respondere valeat ad Scaccarium nostrum. Teste Rege, apud Westmonast. xi. die Februarij, Anno regni sui quadragésimo nono.

¶ Unde;

Wherby the like Patents were at the same time made: as to Iohn de la Hay to be Conservator of Kent, and of the Sea coasts there: to Ralfe Bassett of Draiton, to be Conservator of Staffordshire, and so to others for other Countie: And the like did afterward grow to be usuall, in the times of intestine troubles, or of foraine warres.

Of the first ordeining of the Wardens,
and Iustices of the Peace, by
Statute Law.

CAP. IIII.

fter such time as Quēen Isabel) contending with her husband B. Edward the second) was returned over the seas into England, accompanied with her son Prince Edward (called afterward the thirde king of that name) and with Sir Roger Mortimer & such others of the English Nobility, as had for the indignation of the king, fled over the seas unto her: She some after got into her hands the person of the old King, partly by the assistance of the Heralders that shee brought with her, and partly by the ayd of such other her friends as shee found ready heere: and shee immediately caused him (by forced patience) to surrender his Crowne to the yong Prince. And the also, so, as much as

it was (not without cause) feared, that some attempt would bee made to rescue the imprisoned King, order was taken, that he would be conveyed secretly, and by night watches, from house to house, and from castle to castle, so the end that his followers should be ignorant what was become of him: Yea, and then withall it was ordeined by Parliament, in the life time of that deposed King, and in the very first entry of his sonnes raigne, (1. Ed. 3. cap. 15.) That in every Shire of the realm, good men and lawfull (which were no maintainers of evil, nor Barretours in the countrey) should bee assigned to keepe the peace: which was as much to say, that in every Shire the King himselfe should place speciall eyes & watches over the common people, that should be both willing and wise to foresee, and be also enabled with meet authority to repressse, all intencion of vyage and force, euen in the first seede thereof, and before that it should grow vp to any offer of danger. So that for this cause (as I thinke) the election of the simple Conservatores (or wardens) of the peace was first taken from the people, and translated to the assignement of the King.

And whether the authoritie and power of these Wardens were then also with this alteration any thing increased, or no, I will not asseirme: But I finde (3. E. 3. *ist. Coron. Fitz. 360.*) that an Inditement of murder was found be-
fore one Warden of the peace only, and that he
there

therupon wrote his letter (or precept) to the Sheriffe, to apprehend the person indicted, who tooke and brought him before the Iustices in Eire: and that they also thereupon proceeded to the arraignment and triall of him.

And the statute 4.E. 3.c.2. taketh order, that such as should be indicted, or taken by the Wardens of the Peace, should not be bayled by the Sheriffe, or other Ministers, unless they were Mainpernable by the Law.

Whosoever that were, the same King v^{sd} Commissions (as I think) for the first 33. yeres of his reigne, or assignm^{ts} for the peace. to make his Assignments and Commission to the wardens of the peace, not alwaies generally into each Shire, but sometimes jointly to sundry persons over sundry Shires: so I find a Commission (2. Edw. 3. part. 2. patent. in dorso) made to William Roos & thre others his companions, to be Wardens of the peace, not only in Lincolnshire, but also in thre or foure of the other counties thereunto next adjoining.

This, though it might seeme to be warranted (after 18.E. 3.) v^{pd} the construction of the word Counties, v^{sd} plurally in the stat. 18.E. 3. Stat. 2.c.2. yet was it much contrary to the meaning of the former lawes (made 1.E. 3.c.15. & 4.E. 3.c.2.) where the same word is read (every countie) in the singular number. And therefore y^e parliament (34.E. 3.c.1.) restozed the proper sense of those lawes, saying: In every countie of England there shalbe assigned for the safekeeping of the

peace, one lord & with him, 3. or 4. of the mightiest men in that Countie. And afterward it addeth, They shal haue power to heare and determine (at the Kings suit) all maner of felonies and trespasses, done in the same Countie.

And hereof it commeth to passe, that ever since thence each County hath her proper Commissioners for the Peace, and Counties haue not bene conioyned in Commission, as they were sometimes before. Whereunto also that may bee referred, which M. Firzh. (fol. 171.) hath, saying, That before the Statutes which ordayned Iustices of the Peace, the King vsed to make Constutors of the Peace by his Commission, in those Counties and places, where he thought best, to keepe his peace.

The first
name of
Iustices of
peace,

But now, at what time these Wardeins of the Peace were first named (and might truly be termed) Iustices of the peace, it is not so euident, that I dare determine vpon it. For, on the one side I know that M. Marow taketh it cleare, that they were made Iustices by the Statute 18. E. 3. Stat. 2. cap. 7. and on the other side I see, that they were not named Iustices in any Statute (that I haue found) within 17. yeares after it.

There is a shew (I confesse) in that Statute (18. E. 3.) that they should be Iustices, because of their power to heare and determine felonies which is mentioned there. But if it bee well weighed, it will appeare by the Statute it self, that

that the Wardens of the Peace then were to haue one Commission by themselves so; the keeping of the peace : and that they and others (onely at times needfull) were to haue another Commission to heare and determine Felonies: So that, as they were merely Commissioners for the Peace, they had none authoritie to determine Felonies : and consequently could not (in regard thereof) bee then worthily called Iustices.


And it is plaine (in mine opinion) that the generall power of determining Felonies, was first giuen vnto the Wardens of the peace (as to themselves) by the statute 34 E. 3. ca. 1. After which time also it is very true, that they were both commonly reputed, and called Iustices.

For within one or two yeares after that statute, there is a Commission, which I haue seene (*in dorso patentium parte 2.*) that speaketh thus, *Assignauimus etiam vos, & tres vestrum, Iustitarios nostros &c.* and the statute (36 Ed. 3. ca. 12) taking order for the Quarter Sessions to bee holden, as well by them, as by the Commissioners for Labouers, calleth them plainly Iustices of the Peace.

By

By whose authority, and by what means *Iustices* of the Peace be appointed: and of what sorts they be.

CAP. 5.

 From the King (who is the head of Justice) ought to flowe all authoritie to the inferiour and subalterne Iustices. And vpon this reason, it seemeth that the said Statutes 18. Ed. 3. cap. 2 and 34. Ed. 3. cap. 1. did ordaine, that the Wardens of the peace in each Countie, should bee assigned by the Kings Commission: to the ende that it might thereby appeare, that they receiued their whole authoritie and power, as it were by his owne hand or delinery.

Howbeit afterward, partly through such as had *Inra regalia* within their Counties Palatine, and did thereby make Iustices of the Peace in their own names: and partly by the meanes of sundry Abbots and religious persons, who (labouring by all policy to increase their iurisdiccions, & to shoale out themselves from the ordinary government) had obtained graunts from the Kings of the realme, that they themselves might make *Iusticiarios suos ad pacem seruandam* within their owne liberties, this prerogative of making Iustices, was in many places afterward seuered from the crowne, to no small detriment of the royall estate and dignitie.

And

And therefore, although by the opinion of Judge Fineux, in the Abbot of Saint Albons case, 20. H. 7. 8. such a grant was of no value in law, because it was of a Privilege inseparably annexed to the Crowne: yet R. Henrie the eight thought it fit (by a general resumption in Parliament of all such liberties) to restore unto the crowne her ancient right in this behalf. Whereupon (27. H. 8. cap. 24.) it was decreed, That no person whatsoever should have any power to make Iustices of the Peace: but that they should bee made by Letters patents vnder the K. great Seale, in the name, and by the authoritie of the King and his heires, Kings of the Realme, in all Shires, Counties Palantine, and other places within his dominions.

So that now again, all Iustices of the Peace at this day (except the Archbishop of York, and the Bishops of Durham, & Elie, and their temporall Chancellors for þ time being, which are severally by that very Parliament authorised to be Iustices of the peace within the liberty of Hexam, the Bishopricke of Durham, & the Ile of Ely: and except the Iustices of peace within the county Palantine of Lancaster, which also are by provision in the same statute to be made vnder the kings vsuall seale of þ same Duchie) all others I say, be ordained by the mean of the great seale, & by the ministry of the R. Chancellor, hauing þ charge of the same: but yet so, that some of the be made by Letters patents vnder

*Two sorts of
Iustices of
the peace.*

Speciall

spectall suite to the King, and his bill assigned :
and other some, by Commission of common
Course, that resteth in the dispensation of the
L. Chancellor himselfe.

By Grant.

They of the first sort, be of some called Iudicial Iustices, and Iustices of themselves, for that the King cannot discharge them at his will and pleasure, because they are to continue, and to enioy Iurisdiction, so farre forth as their Patent of Graunt doeth enable them. Marrow.

And therefore, if the King doe graunt vnto a man to bee a Iustice of the Peace during his life within a certaine precinct, without any further words: he shall continue such a Iustice during his life: and shall haue all that power, that a Wardeine or Conseruator of the Peace had: and perhaps such power also as is giuen to a Iustice of the Peace by expresse words in any statute: but he shal not haue all that power which is ordinarily giuen to the Commissioners of the Peace by their Commission. Marrow.

The Maiors, and other head officers, of many Cities and corporate towne, be Iustices of this kinde at this day, by graunts of the King, and his progenitoys.

By Commission.

Whose other Iustices of the peace, which derive their power from the Commission, be called Commissioners of the peace: & do differ frō the other in this poynt especially, that they bee
 Iustices

Iustices during only the Kings life, and (in his life) during onely his owne will, and pleasure.

These (as I said) be now at this day appointed by the discretion of the Lord Chaucello;: but whether the K. himselfe did at the first nominate them (as he did those which were made by Graunt) or else did leane the choyce of them to the Lord Chaucello; alone, or to him and others, it hath some shew of question.

Commis-
sioners of the
peace appointed
by the K.
Chaucello;

It is true, that in the Parliament holden at Canterbury, 12.R.2.cap.2. (which happened shortly after that Michael de la Poole was remooued from that place, and after the troublesome Parliament of the eleuenth yeare of that Kings raigne) It was enacted, that the Chancellor, Treasurer, & Keeper of the Priuy Seale, the Steward of the Kings house, the Kings Chamberlaine, Clerke of the Rolles (now called Master of the Rolles) the Iustices of both Benches, the Barons of the Exchequer, and others that should be called to the naming of the Iustices of peace, Sheriffs, Escheators, Customers, Comptrollers, & other officers, should be sworn to do the same faithfully, and without affection. But whether the meaning of that Statute were, that they all should be continually present together at the nomination of all such officers: and whether that Statute were made but for that busie time onely, it may well be doubted. For again, vpon fault found (as it should seem) that

that the Commissioners of the peace were made of persons insufficient, & dwelling in foreign Counties, it was enacted (2. H. 5. Parl. 2. ca. 1) that from thenceforth they should bee assigned by the aduice of the Chancellor & of the Kings Councell: which words may be taken to sound as though they had bene named before by the Lord Chancellor alone: and yet may they also indifferently be extended, either to aduise the aduice of the Kings Councell to the Chancellor, or the aduice of them both vnto the King himselfe.

This is out of all doubt, that 18. H. 6. ca. 11 do take order, That vpon knowledge giuen to the Chancellor of England, by any appoynted to be a Iustice of peace, that he had not lands to the value of xx. pounds by yeare) the Chancellour himselfe should put another sufficient in his place. And for want of sufficient men, hauing lands of that value, learned in the Law, and of good gouernance, that the Chancellour of England for the time being, should haue power by his discretion to put into the Commission, other discrete persons learned in the Lawe, though they had not lands to that value. And albeit this credit were here giuen vnto him in these particular cases onely, yet may it well be thought, that he had been before, and should be afterward trusted with the choyce of all the Commissioners of the Peace generally: the rather also, for this presumption gathered vpon
on

on the statute (3.E. 6. ca. 1. (which mentioneth that the nomination of the *Custos Rotularum*, (being a very speciall Justice of the Peace) had of long time before belonged to the office of the Chancelloz: until that (vpon sinister occasion) it was taken from him by the statute of 57.H. 8. cap. 1. whereof you shall reade moze in the fourth Booke of this Treatise.

What maner of men the Commissioners of the Peace ought to be.

CAP. VI.

In the choice of the Wardes and Justices of Peace, the Statute Lawes haue respect to the maners, and abilitie or liuelihood of them all: and to the skill & learning of such as are specially selected, & therefore named of the *Quorum*. For Gardeins of the Peace ought to be good men and lawfull: no maintainers of euill, nor Barretors in the countrey: or (as some bookes haue it) no maintainers of euil Barretors in the countrey, 1.E. 3. cap. 15. Men of the best reputation (*Mentis ualantz*) most substantiall (or of most valour) shall be assigned keepers of the Peace, 18.Ed. 3. cap. 2. & 17.R. 1. cap. 9. In every Countie for safegard of the Peace, shall be assigned one Lord, and with him three or foure

four of the (*Menlix valiants*) most valiant men of the Countie, together with some Sages of the Lawes 34.E. 3. cap. 1.

And after some troubles in the time of king Richard the 2. it was enacted, that none shalbe made Iustice of the Peace, for any gift, brocage, fauour, or affection: nor any which sueth by himselfe or any other, priuily, or openly, to bee a Iustice of the Peace, shall bee admitted to that office, 12.R. 2. cap. 2. And of some speciall policie it was then also prouided (cap. 10. of the same parliament) that no Steward of any Lord should bee assigned in the Commission of the Peace. Wherebeit in the Parliament of the next yeere (ca. 7.) it was ordered, that (notwithstanding that clause of the former statute) Iustices of the Peace should then be made of new in all places, of the most sufficient Knights, Esquires, and men of Law.

Againe, Iustices of the Peace (especially those of the *Quorum*) from henceforth shall be made of the most sufficient persons dwelling in the Countie (without taking any others dwelling in forraine Countie) except the Lords, Iustices of both Benches, Iustices of Assise, the chiefe Baro, the chiefe Stewards of the Duchy of Lancaster, the Serieants, and the Kings Atturney, 2.Hen. 5 Parl. 2. cap. 1.

Lastly, for that (contrary to those former statutes) men of smal substance had crept into the Commission, whose pouertie made them both
conetous

couetous and contemptible: a new Law was published to this effect following:

None shall be assigned Iustice of the Peace, if hee haue not lands or tenements to the value of xx. pounds by the yeare: And if any bee otherwise appoynted, he shall within a moneth after notice of the Commission (and vnder the paine of twentie pounds, & to be put out of the Commission) giue knowledge of his not hauing such lands or tenements, to the Lord Chauncellour, who shall put another person sufficient in his place. And the like paine is, if hee sit or make Warrant or any Precept, by force of the Commission. But this extendeth not to Cities, Boroughs, or Townes that be Counties of themselves, or that haue Iustices of Peace (dwelling in them) by Commission or grant of the King: Nor to such Counties where there bee not men sufficient (hauing landes or tenements to the value aforesaid) learned in the Lawe, and of good gouernance: for then, other discrete persons (learned in the Law) may by the Lord Chauncellour bee put in Commission. 18. Hen. 6. cap. 11.

Now although this portion of twentie pounds by yeare, be not at this day in account answerable to the charge and countenance of a fit Iustice of the peace: yet who knoweth not, that at the making of this Law, it was farre otherwise: And therfore I do not doubt, but as the rate of all things is greatly growne since

C

that

that time, so also there is good care taken, that none be now placed in the Commission, whose livings be not answerable to the same proposition.

Thus then, our Parliaments (intending to make the Iustice of peace an able Iudge) doe require, that he come furnished with three of the principal ornaments of a Iudge: that is to say, with Iustice, Wisdome, Fortitude, so to that summe the words, Good, Learned, Valiant, doe fully amount. And under the word good, it is meant also that hee lone and feare God aright, without the which he cannot be good at all.

*How many Commissioners of the Peace
there ought to be in each County.*

CAP. VII.



The number of Wardens of the Peace was not limited, until that the statute (18. Ed. 3. cap. 2.) ordeined, that there should be two or three in each County. And because it was found, within a few yeeres experience, that this number sufficed not for the gouernance of the countie, therfore by an Act made (34. E. 3. c. 1) it was further provided, That in every Shire, one Lord, and with him three (or foure) of the Best in the County, and some learned in the Lawes should

should be assigned for keeping of the peace, and to restrain offendours.

In execution of which Statute, there was (amongst many other) which I haue seene, one Commission for Kent, awarded (35. Ed. 3.) to these eight persons, Robert Herle, Iohn Cobham, Robert Northwood, Ralph Freningham, Thomas Lodelow, Robert Vintar, Iohn Barrie, and Thomas Hartrege.

But as it falleth out many times, that euill examples doe follow of good lawes: So here it came to passe, that whilst the Parliament provided an increase of Officers, to restrain offendours, ambition so multiplied the number of the Iustices, that it was afterward high time to make a contrary Law, to diminish them. And therfore by the statutes (12. R. 2. ca. 10. & 14. R. 2. cap. 11.) it was prohibited, that there should not be any more then sixe Iustices of the Peace in any commission, besides the two Iustices of Assise, and certaine Lords that were assigned in the Parliament it selfe. And for the better restraint of the increase of the in time to come, it was also then further enacted, that no Association should be made to the Iustices of peace after their first Commission, 13. R. 1. cap. 10. Which law, although it be not to be abrogated till this day, yet it was long since eluded, by making of new Commissions, that had more new Iustices thrust into them.

And (truely) it seemeth to me, that (together

Very many
Iustices of
peace at this
day.

with the like ambitious desire of bearing rule in some) the growing number of the Statute Lawes, committed from time to time to the charge of the Iustices of the Peace, hath bene the cause that they also are now againe increased to the overflowing of each Shire at this day.

Iustices of
peace be over-
laden with
Statutes.

For if Husley, (the Chiefe Iustice, 1.H.7.3.) did thinke that it was enough to loade all the Iustices of the Peace of those dayes, with the Execution, onely of the Statutes of Winchester and Westminster, for Robberies and Felonies: the Statute of Forcible entries: the Statute of Labourers, Vagabonds, Liveries, Maintenance, Embracery, and Sherifes: Then, how many Iustices, (thinke you) may now suffice (without breaking their backs) to beare so many, not loads, but stacks of Statutes, that haue since that time bene laid vpon them?

To dispute, whether it be now better to haue many or fewe Iustices of the Peace in each Shire, is a notable question, and worthy of a higher consideration: and therefore it becometh not vs to enter into it.

The

The forme of the late reformed Commission of the Peace.

CAP. VIII.



Considering that all the authoritie and power of these Commissioners of the Peace, floweth out of their Commission, and out of the Statutes, (as it were from two principall heads or fountaines) the place now requireth, first, that wee unfold the Commission it selfe, and consider what is contained therein, then afterwards that wee peruse the Statutes also, as they arise and shew themselves.

Iacobus Dei gratia Anglia, Scotia, Francia, & The Saluta-
 Hybernia Rex, fidei defensor &c. Prædilecto &
 fideli Iohanni Cantuariæ Archiepiscopo &c. Necnon
 prædilecto Thomæ Egerton, militi Domino custodi
 magni sigilli nostri &c. salutem.

Sciatis, quod assignauimus vos conuinctum & The power of
 diuissim, & quemlibet vestrum, Iusticiarios nostros, the Iustices.
 ad pacem nostram in Comitatu nostro Kancia con- The first
 seruandam: Ac ad omnia Ordinationes & Statuta Clanke.
 pro bono pacis nostre, ac pro conseruatione eiusdem,
 & pro quieto regimine & gubernatione populi no-
 stri edita, in omnibus & singulis suis Articulis, in
 dicto comitatu nostro tam infra libertates quam ex-

tra, iuxta vim formam & effectum eorundem, custodiendum & custodiri faciendum. Et ad omnes contra formam Ordinationem, vel Statutorum illorum, aut eorum alicuius in comitatu predicto delinquentes, castigandum & puniendum, prout secundum formam ordinationum & Statutorum illorum fuerit faciendum: & ad omnes illos qui alicui, vel aliquibus de populo nostro de corporibus suis, vel de incendio domorum suarum minas fecerint, ad sufficientem securitatem de Pace, vel bono gestu suo, erga nos & populum nostrum inveniendam coram vobis seu aliquo vestrum venire faciendum: & (si huiusmodi securitate inuenire recusauerint) tunc eos in prisonis (quousque huiusmodi securitatem inuerint) salvo custodiri faciendum.

The second
clause.

Assignauimus etiam vos & quoslibet duos, vel plures vestrum (Quorum aliquem vestrum A. B. C. D. E. F. & c. vnum esse volumus) Iusticiarios nostros, ad inquirendum per Sacramentum proborum & legalium hominum de Comitatu predicto, (per quos rei veritas melius sciri poterit) de omnibus, & omnimodis Felonijs, Veneficijs, Incantationibus, Sortilegijs, Arte magica, Transgressionibus, Forstallarijs, Regratorijs, Ingrossarijs, & Extortionibus quibuscunque: Ac de omnibus & singulis alijs malefactis & offensis (de quibus Iusticiarij pacis nostra legitime inquirere possunt, aut debent) per quosque, & qualiscunque, in Comitatu predicto factis, sue perpetratis, vel que impotenter ibidem fieri, vel attemptari contigerit: Ac etiam de omnibus illis qui in Comitatu predicto in con-

uenti-

nenticulis contra pacem nostram in perturbationem populi nostri, seu vi armata ierunt, vel equitauerunt, seu imposterum, ire vel equitare presumpserit: Ac etiam de omnibus hijs qui ibidem ad gentem nostram mayhemandam, vel interficiendam in assidijs iacuerunt, vel imposterum iacere presumpserint: Ac etiam de hostellarijs, & ijs omnibus & singulis personis, qui in abusu ponderum, vel mensurarum, sine in venditione victualium, contra formam Ordinationum vel Statutorum, vel eorum alicuius, inde pro communi utilitate regni nostri Anglie & populi nostri eiusdem editorum delinquerunt, vel attemptauerunt, seu imposterum delinquere, vel attemptare presumpserint, in Comitatu predicto: At etiam de quibuscunque vicecomitibus, balliis, Senescallis, constabularijs, custodibus gao-larũ, & alijs Officiarijs, qui in executione Officiorũ suorum (circa pramissa, seu eorum aliqua) indebitẽ se habuerunt, aut imposterum indebitẽ se habere presumpserint, aut tepidi, remissi, vel negligentes fuerunt, aut imposterum fore contingerit, in comitatu predicto: Et de omnibus & singulis articulis & circumstantijs, & alijs rebus quibuscunque, per quoscunque & qualitercunque in Comitatu predicto factis sine perpetratis, vel qua imposterum ibidem fieri, vel attemptari contingerit, qualitercunq; pramissorum, vel eorum alicuius, concernentibus plenius veritatem.

Et ad indictamenta quaecunque sic coram vobis seu aliquibus vestrum capta, sine capienda, aut co-

ram alijs nuper Iusticiarijs pacis in Comitatu predicto facta sine capta (& nondum terminata) inspicieñdū, ac ad processum inde versus omnes & singulos sic indictatos, vel quos coram vobis impoſterū indictari cōtigerit (quosque capiantur, reddas se, vel utlagentur) faciendum & continuandum.

Et ad omnia & singula felonias, veneficia incantationes, sortilegia, artes magicas, transgressiones, forſtallarias, regratarias, ingrossarias, extortiones, conuenticula, indictamenta predicta, ceteraque omnia & singula premissa, secundū Leges & Statuta regni nostri Anglia (prout in huiusmodi casu fieri consuevit, aut debuit) Audiendum & Terminandum: Et ad eosdem delinquentes, & quemlibet eorum pro delictis suis per fines, redemptiones, amerciamenta, forisfacturas, ac alio modo (prout secundum legem & consuetudinem regni nostri Anglia, aut formam Ordinationum, vel Statutorum predictorum fieri consuevit, aut debuit) castigandum & puniendum.

Exceptions
& restreint.

Proviso semper, quod si casus difficultatis super determinationē aliquorum premissorum coram vobis, vel aliquibus duobus, vel pluribus vestrum evinire contigerit: Tunc ad Iudicium inde reddendum (nisi in presentia unius Iusticiariorum nostrorum de iure, vel de altero banco, aut unius Iusticiariorum nostrorum ad assisas in Comitatu predicto capiendas assignatorum) coram vobis vel aliquibus duobus, vel pluribus vestrum, minime procedatur.

Et ideo vobis, & cuilibet vestrum mandamus, qd' **The charge**
circa custodiā pacis, ordinationum, statutorū, & om- **to the Justices.**
nium & singulorū ceterorum premissorum, diligen-
ter intendatis. Et ad certos dies, & loca, qua vos, vel
aliqui huiusmodi duo, vel plures vestrum (ut predictū
est) ad hoc prouideritis, super premissis faciatis in-
quisitiones, & premissa omnia & singula audiat
& terminetis, ac ea faciatis & explicatis in forma
predicti facturi inde quod ad iusticiā pertinet secun-
dum legē, & consuetudinē regni nostri Angliæ: Sal-
uis nobis amerciamētis, & alijs ad nos inde spe-
ctantibus.

Mandamus enim tenere presentium vicecomiti **To the Sher-**
nostro Kancie, quod ad certos dies & loca (qua vos, rite.
vel aliqui huiusmodi duo, vel plures vestrum ut
pred' est, ei ut pred' est (circ feceritis) venire fac' co-
ram vobis, vel huiusmodi duobus, vel pluribus ve-
strum (ut dictum est) tot & tales probos & legales
homines de balliua sua (tam infra libertates, quam
extra) per quos rei veritas in premissis melius sciri
poterit & inquiri.

Assignauimus denique te prefatum Edw. Hoby **To the Custos**
Militem, custodem Rotulorū pacis nostra in dict' co- **Rotulorum.**
mitatu nostro: ac propterea tu ad dies & loca pred',
Breuia, Precepta, Processus, & Indictamenta pred'
coram te, & dictis socijs tuis, venire facias, ut ea in-
spiciantur, & debito fine terminentur sicut predictū
est. In cuius rei testimoniu, &c. Datum decimo sep-
timo die Nouemb. Ann. regni nostri &c.

An explication of sundrie parts of the said
Commission or the Peace.

CAP. IX.

Before that I enter into the opening of the capital points of this present Reformation, it shall not be out of the Readers way, to leade him along by the old Commission: and to shew vnto him, both what it was at the first, how many accessions it received in processe of time, and how (being of late yeeres vnregarded) it was so fallen into corruption, that of necessity it ought to be redressed.

It is the agreeing opinion of all the Judges (2.R. 3.9.) that Iustices of the Peace had none other power (at the first) but only *ad pacem Regis conseruandam*. And that the same is most true, you may well perceiue by that Statute (1.E. 3.cap. 15.) which first created these Iustices, and gaue vnto them the onely power, to keepe the Peace. But the very next years after, the forme of their Commission was enlarged, so as they had the Statute of Winton in charge, and were both enabled to enquire of Felonies and Trespasses, and warranted also to arrest felons that were indicted: For so was the Commission to William Roos and others, whereof I haue spoken before.

After

After this, in the 20. yeare of the same King Ed. 3. the statute of Northampton (which was made 2. Ed. 3. ca. 3. was inserted to their Commissions: and together with it a direction to certifie into the Chauncery, the names of such as (being indited) did flie, and did refuse to be Justiced: because at that time they had no power (as it seemeth) to award any proccesse at all, 20. E. 3. part. patent. in dorso.

The charge
to the Justices.

In which same 20. yeare (part. 2. patent. membrana 7. in dorso) you shall find a Commission of the peace directed afterward, Roberto de Scardeburgh, Ade de Semere &c. ad custodiendum pacem nostram & Statutum de Winton, Statutum apud North. & Statutum apud Westm. Ann. 5. regni nostri editū si suspitio mali versas aliquos habeatur, &c. Which statute of Westm. lieth in the 14. chapter of that 5. yeare of King Ed. 3. and was made against Robertsmen, Drawlarches, &c. and was at that time first mentioned in the Commission of the Peace.

Againe, as it is evident, that the statute (14 E. 3. cap. 1) was the first that gave authoritie to these Justices to heare & determine of trespasses & felonies: So is there a forme of a commission to be seene (35. E. 3. part. 2. patent. in dorso) which was awarded to Robert Herle, lo. Cobhā, loh. Barry, & others for Kent, in which their power in felonies and trespasses, was accordingly enlarged: with a further addition also touching weights & measures, seruants, artificers & laborers: and

and therein also is the first clause (that I haue seene) for taking the Suretie of the peace and good Abearing.

Thus stood the forme of the Commission of the peace (so farre as I haue perceined) untill the time of King Richard 2. In the 13. yeare of whose raigne (as you may reade *parte 1. patent. membrana 25.*) there was a Commission dated the 15. of Iuly, wherby these Iustices were commanded to inquire of Caps, and Liveries, Forestallings & Regrataries, and of Extortions committed by Victuallers, Hostlers, Laborers, Artificers and Seruants.

In the next yeare of the same King R. the second, the execution both of the statute made at Cambridge (12.R.2.c.7.8.& 18.) concerning Laborers, and of the statute made at Westmin. (13.R.2.cap.13.) against Hunters, was recommended to the Iustices of the Peace in their Commission.

At which time also the clause concerning Sherifes, Maiors, and Bailifes was first brought into the Commission of Peace: and Stephen Bateman was then the first for Kent, to whom the credit of the Records of the peace was thereby committed: which Officer is now thence called the *Custos Rotulorū*: all which matters you may find in the Record, 18. Iuny, Ann. 14.R. 2. *parte 1. patent. membrana 35.*

Furthermoze, after al this (but in what very yeares I certainly know not) first the statutes

of

of Liveries (made 1. H. 4. ca. 7. & 1. H. 4. ca. 21.)
Then the Statute made 1. H. 5. cap. 7. against
Lollards: and lastly, the Statute made 3. H. 5. c.
6. & 7. against counterfeiting, clipping, and wa-
shing of Money, were all thrust into the Com-
mission of the Peace.

And in this plight (that part of the Lollards
onely excepted) stood the Commission of the
Peace, till it was even now of late: Notwith-
standing, that it was both surcharged with
vaine recitall, and often repetitions of some
of these Statutes that were a good while be-
fore repealed: and also sorely blemished with
sundry other corruptions that had crept into
it, partly by the mis-writting of Clerkes, and
partly by the untoward huddling of things
together, which were at strife the one with the
other of them.

Which imperfections being made knowne
to the late Reuerend Judge Sir Christopher
Wray; (then Lord chiefe Justice of the Kings
Bench) he communicated the same with the o-
ther Judges and Barons of the Coise, so as by
a generall conference had amongst them, the
Commission was carefully refined in the Mi-
chaelmas Terme 1590. & being then also pre-
sented to the Lord Chancellor, as a meet patern
of a Commission of the peace, to be vniformely
put in vze throughout the realme, he forthwith
both accordingly accepted thereof, and com-
manded the same to be sealed and sent abroad.

Wotn

How many amendments it receiued heere by, and vpon what speciall reasons, I will not now repeat, since I did soone after publish the same in a conference made of the old and of this new Commission.

Thus much therefore promised, let vs go in hand with the Commission, as it now standeth before you.

Forasmuch as in the late reformation of this Commission, care was taken, that the grosse matter of the former Commission being tryed out (by the fire of learning and discretion) the body and countenance thereof should (as much as might be) remaine, and be let to stand: it cometh to passe, that the chiefe parts hereof be yet the very same that they were before, and are comprehended within these fewe Termes following:

The three
parts of the
Commission.

1. Salutation of the King.
- The 2. Power of these Iustices.
3. Charge given to them, & to others.

The Salutation of the King is but a Catalogue of all the names of the Iustices, and containeth nothing that hath light.

Next followeth the power of the Iustices, contained in two generall clauses, whereof the former beginneth thus: *Sciatis quod assignauimus vos, conuictim & diuisim, & quolibet vestrum, Iusticiarios nostras, ad pacem nostram &c.*

The later beginneth at the end of the former thus: *Assignauimus etiam vos, & quolibet*
duos

*duos, vel plures vestrum (quorum aliquem vestrum
 &c. unum est volumus) Iusticiarios nostros ad In-
 quirendum &c.*

The first Clause (oz *Assignamus*) maketh
 them Iustices for the conservation of his Maie-
 sties peace: by force of which word, they have
 singularly, dually, and plurally, both all the au-
 riet power touching the peace, which the Con-
 servatoz of the peace had by the common Law:
 and also that whole authority which statutes
 have since added thereunto. For the more e-
 vident declaratiō wherof, they are immediatly
 after assigned to conserve *Omnia Ordinationes
 & statuta pro bono pacis &c.* In which generall
 words there do lie implied, not only the general
 statutes of Westminster, 1. ca. 9. 13. E. 1. c. 1. &
 28. E. 3. ca. 11. for Hvy & cry after felons: and
 that of Westminster (5. E. 3. ca. 14.) against
 Nightwalkers, that be suspected: but also what-
 soever other lawes & statutes made, either for
 the arresting of robbers, murderers, felons, and
 of those that be suspected to be such: oz for the
 repressing of ryots, affraies, force, and violence;
 all which bee directly against the Peace, as all
 men do know: oz for the having of armour and
 weapon, which tendeth principally to the kes-
 ping of the peace, as the statute of Winchester. it
 selfe doth acknowledge.

And therefore, there is no more necessitie to
 recite any of them by name in the Commissiō,
 the to make tedious rehearsal of all those other
 sta.

The first
 Clause.

Both Cōser-
 vatoz & Ju-
 stices, for the
 peace, and for
 the statutes.

Statutes, which (giving expresse authoritie to the Iustices of the Peace) doe containe a sufficient Warrant and ample Commission within themselves.

Two meanes to conserve.

But, even as the conservation of the Peace, and the execution of the Statutes bee severall things: so is there in this first branch (or clause) two distinct wayes (or meanes) for the effecting of the same. For the Statutes are to bee performed according to such prescript and order, as themselves doe deliver: wherein if no power at all be expressely given to any one Justice of the Peace alone, then can he not otherwise compell the observation thereof (so farre as I can learne) then by Admonition onely, and calling upon the parties: in which behalfe, if hee shall not be obeyed accordingly, he is to preferre the cause at the Sessions, and to worke it to a presentment upon the Statute, & so (by the helpe of his fellow Justices) to heare and determine thereof, as Law requireth.

Sureties of the peace.

But, for prevention of the breach of the peace, he hath full authoritie hereby, not onely to call the parties for the finding of Sureties for the Peace, or for the good behavio, as the case shall require, but also (for not finding such sureties) to commit him to safe custody, within his Paishlie gaole or prison.

Liberties.

Lastly, for the closing up of this first clause, it is to be remembred, that al this authoritie is to be exercised, *in comit' p'ad, tam infra libertates quam*

quod extra, in the said Countie, as well within the libertie as without. But yet so, as the distinction of Libertie be not neglected. For as in many other Shires, so in Kent also, there be some Cities or Townes that bee Counties of themselves, having their proper Iustices within them: And some others there be, which having their proper Iustices, be not any Counties of themselves at all, though happily they hang in their Charter speciall words of prohibition, that the Iustices of the Shire at large, *Nonsu-
ntrogissant &c.* of that former sort is the Citie of Canterbury with vs, and of this latter sort is the citie of Rochester.

Whereupon it followeth, that a Iustice of the peace in Kent, of the shire at large, hath no more authority by this Commission, within the libertie of the citie of Canterbury, then he hath within the Shire of Sussex: because that Citie is not *in Comitatu Kentie*, but it is a distinct County from it, even as Sussex is.

Howbeit, some thinke that there is not the same, but another maner of impediment for a Iustice of the shire at large, to doe the parts of his office within the citie of Rochester: because that is no Countie of it selfe, but is *in Comitatu Kentie*, as other common Townes are. Onely here is a restraint in the Charter of the Citie, that such a soveraine Iustice shall not intermeddle there within that Libertie: the which if he shall (notwithstanding such inhibition) at-

tempt to do, he transgresseth not the bounds of his owne Commission thereby, but breaketh into their liberties, against that Prohibition and consequently it seemed to some (20.H.7.6.) that his act is not merely void of all authority (because it is the service of the King, which alwayes carrieth *Non omittas propter aliquā libertatem* in it, but hee himselfe is subject to such punishment, as belongeth to that his temeritie and indiscreet action.

The second
clause.

Enquire, pro-
ceed, heare, and
determine.

The latter Clause (or *Assignamus*) of the Commission, comprehendeth the power giuen to these Iustices, as well for to enquire of all those offences that bee contained therein, as to proceed, heare, and determine thereof upon any former (or future) Inditeiments: So alwayes that two of these Iustices at the least bee present therat, & so that the one of those two be of that select number, which is commonly termed of the *Quorum*.

The Quorum

For those of the *Quorum* were choont (and that not without iust cause) to bee chosen specially for the knowledge in the Lawes of the Land: and that was it which ledde the makers of the Statutes (18.Ed.3. cap. 2. 34.Ed.3. cap. 1. & 13.R.3. cap. 7.) expressly to enact, that some learned in the Lawes should be put into the Commission of the Peace: and (to say the truth) all statutes, that desire the presence of the *Quorum*, doe secretly signifie such a learned man.

For

For, albeit that a discret person (not conuer-
sant in the study of the Lawes) may sufficient-
ly follow sundrie particular directions concer-
ning this service of the Peace: yet when the
proceeding must bee by way of presentment
vpon the evidence of witnesses and oathes of
Jurors, and by the order of hearing and deter-
mining, according to the streight rule & course
of the Law, it must be confessed, that learning
in the lawes is so necessary a light, as without
the which, all the labour is but groping in the
darke, the end wherof must needs be error and
dangerous falling.

This clause giueth speciall authoritie also, *The branch*
both for the punishment of offenders, and for *for punishment.*
the correction of such officers as shall be found
remisse: the which was suffered to remaine, not
as of any necessity at all (seeing that the punish-
ment of all offenders is implied in the word de-
termining, and considering that it is incident
to every court of Records, to do correction vpon
whatsoever Officers and ministers that doe
serue them) but onely for the plainet declarati-
on of the power of these Iustices in that behalf,
and for the more assured terrifying of such as
shall (either of contempt, or negligence) doe that
which is amisse.

And here, least these Iustices should rather *Restraint in*
ground their iudgements vpon the number of *matters of*
voyses, then vpon the weight of reasons, this *doubt.*
latter Clause is shut vp with a Provision,

and restraint, that in al cases of ambiguity and doubt, they shall spare to procede to iudgement, and shall expect the presence, either of some one of the Judges of the Kings Bench, or the Common Place, or at the least of one of the Iustices of Assise of that Countie, which be their moze neere and ready oracle. And yet (as Maister Fitzh. fol. 7. well noteth) is not their iudgement bozde, if they list to proceed without such aduise: but it standeth good and effectual, vntill it shall bee reversed by a Writ of Error.

The charge
to the Iustices.

The power of these Iustices hath thus appeared: now therfore let vs heare the commandement and charge that is given to them, and the others.

First, these Iustices, and euery of them, be charged to bee diligently intendant about the execution of all and singular the premisses, by these words; *Et ideo vobis & cuilibet vestrum mandamus &c.* in the end wherof there lieth a plain saving to the King of all such Amerciamentes, and other things, as shall grow due vnto him by their service in this Commission: of which point I will say moze, in place moze conuenient for it.

To the Sheriffe.

Then is the Sheriffe of y^e County commanded to be attendant vpon these Iustices, for the returne of Iuries to bee made before them, by these words, *Mandamus enim tenore presentium vicecomiti nostro Lancie, &c.* And lastly, the

Cust

Custas Rotularum, (being one of these Iustices) *To the Custos*
 hath moreouer a speciall charge by himselfe, in *Rotularum*.
 right of this Office, to produce the Records of
 the peace, to the end that they may bee both pe-
 rused, directed, and proceeded vpon: all which
 matter lieth in these words, *Affignauimus demi-*
que te prefatum Edm. Floby militem Custodem Ro-
tularum pacis nostra &c.

Of whose Office and authoritie more shalbe
 said in particular, when we come to the fourth
 Booke of this volume.

Of the Oathes vsually ministred to the
Iustices of Peace.

CAP. X.

Such as doe occupy Iudicial places, *The causes*
 ought to take heed what they doe, *why Iustices*
 knowing (as Ierusalem said) that *be shoyne.*
 they exercise not the iudgements
 of Men only, but of God himself, whose power
 as they doe participate, so he also is present on
 the Bench with them: And therefore it hath
 bene alwayes the policie of Christian lawes,
 to appoint meete soymes of religious attestati-
 ons (or Oathes) for such Officers to take & con-
 ceine: meaning thereby, not onely to set God
 continually before their eyes, (whom by such
 oath, they take to witnes of their promise, and
 call for reuenge of their falshood) but also thre a,

ten them (as it were) with temporall paines provided against corrupt dealings: and with all to strengthen their minds, and arme their courages against the force of humane affections, which otherwise might allure and draw them out of the way.

Upon this ground, the statute (13. R. 2. Stat. 1. c. 7.) which willed, that Iustices of the peace should bee made of new in all the Countiees of England, did therewithall take order, that they should be swozne, to keepe, and put in execution all the Statutes touching their office: which albeit that it bee the first Oath that I find to haue bene ministred to Iustices of the Peace, yet I thinke they were neither unswozne before, nor at any time after, as may bee collected upon the bookes, 21. E. 4. 67. & 12. E. 4. 18.

I beleene also, that the same manner of Oath was deuised but for that time onely, and continued not long in that forme, as being of it self very generall, and hard to bee obserued. And that (happily) was the cause, that it was afterward changed to that forme, which W. Fitzh. in his Booke hath left vs, and which (with the alteration of a few wordes onely) is yet at this day kept in vse.

For upon the renewing of the Commission of the Peace (which now adayes happeneth as often as any person is newly brought into the same) there commeth (of course) a Writ of *De officio potestatis*, directed out of the Chancery

to some ancient Justice of the peace, to take the Oath of him whose name is newly inserted, and to certifie the same into that court, at such day as the Writ commandeth.

The Writ is now accompanied with two Scedules, whereof the one containeth the oath of the Office of a Justice of the Peace in this forme :

Yee shall sweare, that as Iustices of the Peace in the Countrey of *Kent*, in all Articles in the Kings Commission to you directed, ye shall doe **E G A L** right to the poore, and to the rich after your cunning, wit, & power, and after the lawes and customes of the Realme, and statutes thereof made: And yee shall not bee of counsell of any quarrell hanging before you: And that ye holde your Sessions after the forme of Statutes thereof made: And the issues, fines, and amercements that shall happen to be made, and all forfeitures which shall fall before you, ye shall cause to be entred without any concealment (or imbe-silling) & truly send them to the K. Exchequer. Yee shall not **L E T** for gift or other cause, but well and truly you shall do your office of Iustice of the Peace in that behalfe: And that you take nothing for your office of Iustice of the peace to be done, but of the king, & fees accustomed, and costs limited by the statute: and ye shall not direct, nor cause to bee directed, any Warrant (by you to be made) to the parties, but ye shall direct

The Oath of the Office.

1. REGAL
in the printed
Booke Fitzh.

2. SVRCEASE
in the printed
Booke.

¶ 3. And his
Saints: in the
printed Booke

them to the Bailifes of the said countie; or other
the Kings officers (or ministers) or other indiffe-
rent persons, to doe execution thereof: *So help
you God,* and by the contents of this booke.*

The variance betwene this and that eld-
er forme, standeth (as you may see by the Mar-
gent) in thre poynts: whereof twaine bee of
no weight at all, but the third needeth amend-
ment. For right godly and well did those 32.
persons (that were put in trust to pen Ecclesi-
asticall Lawes) purpose to make this Lawe a-
mongst others:

*Legitimum autē iuramentū, ijs verbis, & nullis
alijs, suscipi volumus: Ita me Deus per Dominū
nostrum Iesum Christum adiuvet.*

This Oath of the Office consisteth of six Ar-
ticles, which (for memoeries sake) I have sene
expressed in these five wordes following:

- 1 Doe equall right to rich and poore,
as wit and Law extends:
- 2 Give none aduice in any cause,
that you before depends:
- 3 Your Sessions hold, as Statutes bid:
the forfeits that befall,
- 4 See entred well, and then otfreat
them to the Chequer all:
- 5 Receive no fee, but that is giuen
by King good use, or right:
- 6 No send Precept to party selfe,
but to indifferent wight.

The other Decretals comprehendeth that
forme

fozme of Oath, which (after the second abolishment of the vsurped authorizty of the Romish Pharaoh, by the ioyous entry of our late gracious Quene Elizabeth) was in the first Parliament of her raigne (cap. 1.) appointed for Iustices of Peace (amongst others) to take, befoze that they should exercise the office: and it hath these words:

I William Lambard doe vterly testifie and declare in my conscience, that the Kings Highnesse is the onely supream Gouvernour of this Realme, & of all other his Highnesse Dominions and Countries, as well in all Spirituall and Ecclesiasticall things (or causes) as temporall: & that no forraine Prince, Person, Prelate, State, or Potentate hath, or ought to have, any Iurisdiction, power, superiority, preheminence, or authoritie, Ecclesiasticall or Spirituall, within this Realme. And therefore, I doe vterly renounce and forsake all forraine Iurisdctions, Powers Superiorities and authorities, and doe promise, that from hencefoorth I shall beare faith & true alleageance to the Kings highnes, his heires and lawfull successors, and (to my power) shall assist and defend all Iurisdctions, priuiledges, preheminences, and authorities granted or belonging to the Kings Highnesse, his heires and Successors, and vnited and annexed to the Imperiall crowne of the Realme: *So helpe you God, &c.*

The Oath of
Supremacy.

Where hath bene care taken, (once, or twice,

in

in our memoꝝ, to eraze this latter Oath of all the Iustices of peace thꝛoughout the Realme, wherof some good hath issued: But yet many Iustice there is, that (by indirect practise) neuer take this o; the so;mer: wherof what harmes do, o; may grow, I leaue to wiser & higher men to be considered: Adding this only, y it would auaille greatly to the furtherance of the seruice, if the *Dedimus potestatem* to giue these Oathes, were dirigible to the Iustices (and none other) to minister the same not elsewhere, but in their open Sessions.

The Oath of Allegiance.

See 7. lac. cap. 6. a third Oath (tending to the declaration of such dutie as euery well affected subiect by bond of Allegiance, and commande-ment of Almighty God, ought to beare to his Soueraign) to be taken also by Iustices of the peace, among others.

Of the power, absolute, and limited, that the Iustices of the Peace haue.

CAP. XI.

Discretion.

THe power of the Iustices of Peace whether you wil consider it by the view of this their Commission, o; by their authorizty cōtained in the statutes, is in some cases limited, and (in other some cases) Absolute: By which later word, I do not meane absolute simply, but after a manner: So; they may neither hang a man so; a grieuous

griuous Trespasse, nor fine him for a Felony: and therefore this absolute authority is to our law better known by the name of Discretion: because the Justice of peace may exercise sometimes *legis actionem*, & sometimes *Iudicis officium*: or (which is all one) *Iudicium & decretum*, as the case shall offer, and the law will suffer him.

It is good counsell which Aristotle giveth in his Rhetoriques *ad Theodectem*, that in the making of Lawes, *Quoad eius fieri possit quam plurima legibus ipsis desineantur, quam paucissima vero Iudicis arbitrio relinquatur*: and the Commission of the Peace (following that advise) doth leave little (or nothing) to the discretion of the Justices of the Peace, but bindeth them fast with the chaines of the Lawes, Customs, Ordinances, and Statutes.

Howbeit, our later Lawes of Parliament, although they also doe indeavour (for the most part) to hold the same course: yet soasmuch as every considerable circumstance cannot be foresene at the time of the making of the law, they doe many times leave to bee supplied (by the discretion of the Executioner of the Law) that thing which was not conveniently comprehended before hand, by the wisdoms of the Author of the Law.

And therefore, although Discretion bee necessary in the execution of every Law (be it never so certainly set forth, & bounded in it selfe) yet (in the mouth and language of our Law,) that

that onely and properly is said to bee done by discretion, which is not specially limitted with all the circumstances, but is indifferently referred to the consideration of the Justice that is put in trust with it.

And truly it is to be wished, That Justices of the Peace would not, by colour of this reference to their Discretion, in some few cases) arrogate vnto themselves authoritie to vse their Discretion, and to play (as it were) the Chancellors in every cause that commeth before the. For, no way better shall the Discretion of a Justice of the peace appeare, then if he (remembering that he is *Lex loquens*) doe containe himselfe within the lists of law, and (being soberly wise) do not vse his owne Discretion, but only where both the law permitteth, and the present case requireth it. Right well said Cicero: *Est sapientis Iudicii cogitare, tantum sibi esse permissum, quantum sit commissum ac creditum.*

Of the Iurisdiction, and Coertion, belonging
to the Iustices of Peace.

CAP. XII



Justice cannot bee administred, without both a Declaration of the Law and Execution of the same: So to the ende that our Justices of the peace may be able to deliuer Justice, they are accom-

accomplished with double power, the one of Jurisdiction, and the other of Coercion, that is to say, with ample authoritie, not onely to conuient the persons, but also (after the cause heard and adiudged) to constrain them to the obedience of their order and decree.

This Jurisdiction of theirs is exercis'd, for Jurisdiction the most part, (if not altogether) about those causes, which bee in a maner the same that the Ciuill Lawyers doe call *Iudicia publica*, partly, because the King (who representeth the head of the Common wealth) hath interest in the most of them, as well as the private person which is immediatly offended: and partly, because they are not commonly tryed by such Action as other ciuill and private causes are, but rather by criminall and publique Accusation, Informa- tion, or Presentment.

And herein the Iustices of the peace is by the one halfe superiour to the ancient Conservatoz of the peace, who had onely Coercion or Pre- hension in a few cases, and no Jurisdiction in any cause that I remember.

But if the authority of these Iustices should cease, when the fault is tolde, heard, and adiudged, then should they bee no better then halfe Iustices: and therefore the Law hath also put Coercion, Execution, or punishment (as I said) into their hands, least otherwise their iudgements should be deluded for want of power to bring them to effect.

This

Correction of
punishment,
for what cau-
ses it is ap-
pointed.

The Punishment then, is an orderly execu-
tion of lawfull iudgement, laid vpon an offen-
dor, by the Minister of the Law: and it is done
for foure causes: First, for the amendment of
the offendour: Secondly, for examples sake,
that others may bee thereby kept from offen-
ding: Thirdly, for the maintenance of the au-
thoritie and credite of the person that is offen-
ded: and these three reasons bee common to all
such punishments. Seneca rehearseth the fourth
finall cause, that is to say, that (wicked men be-
ing taken away) the good may liue in better se-
curity: and this pertaineth not to all, but to ca-
pitall punishments only, as euery man may at
the first hearing vnderstand.

The Romanes vsed especially eight sorts
of Chastisements, knowen to them by these
names, *Dammum, Vincula, Verbera, Talio, Igno-
minia, Exilium, Seruitus, Mors*: that is, Losse of
goods, Imprisonment, Stripes, Retaliation, Re-
proch, Banishment, Seruitude, and Death: all
which, our Law (before the Conquest) was
wont to inflict, albeit that now Seruitude, and
Retaliation being gone, Banishment is almost
out of vse.

The sorts of
punishment.

The Punishments that bee commonly put
in execution at this day, and wherewith the
Iustices of the Peace haue to doe, they be
diuided into Corporall, Pecuniarie, and In-
famous.

Corporall.

Corporall punishment, is either Capitall, or
not

not Capitall. Capital (or deadly) punishment is done sundry wayes; as by hanging, burning, boiling, or pressing: not Capitall, is of vniuers sorts also, as cutting off the hand or eare, burning (or marking) the hand, face, or shoulder, whipping, imprisoning, stocking, setting on the Willoe, or Cucking-stole, which in olde time was called the Tumbrell. Of this kind of punishment, our old Law (making precious estimation of the liues of men) had more sorts then we now haue: as pulling out the tongue, for false rumours, cutting off the nose, for adultery, taking away the priuy parts, for counterfeiting of money, &c.

Under the name of Pecuniary punishment, Pecuniary. I comprehend all Issues, Fines, Amerciaments, and forfeitures of Offices, goods, or lands.

And if the Iustices of peace may by vertue of Infamous. their Commission, deale with such Conspirators as doe confederate together, to cause any persons vniuersally to be indited of felony, whether afterward he is acquitted (as some doe thinke they may) then is there a speciall punishment in that case appointed by law, which in 24. E. 3. 73 is termed Villanous, & may be wel called Infamous, because the iudgement in such case shall be like vnto the ancient iudgement in attainr, (as it is said 4. H. 5. Fitzh. Iudgment 210.) and is (in 27. lib. All. pl. 59.) set downe to bee, that their Oathes shall not bee of any credit after: nor lawfull for them in person to approach the

the Kings Courts: and that their lands & goods be seized into the Kings hands: their trees rooted vp, and their bodies imprisoned &c. And at this day, y^e punishment appointed for Perjury (hauing somewhat more in it then Corporall, or Pecuniary paine) stretching to the discreditting of the testimony of the offender, for ever after, may be partaker of this name.

That Iustices of the Peace bee
Iudges of Record.

CAP. XIII.



It maketh not a little, both for maintenance of y^e Peace, & for the credit of y^e Iustices thereof, y^e they are named amongst the Iudges of Record. For on the one side euill doers will be afraid, when they shall see Remorsials of their wickednesse before their eyes: and on the other side, the proceeding of those Iustices shall be so much the more reuerenced & set by, as it shall appear that their endeuors are countenanced with the fauour of authority. And therfore let vs see what is meant by the word Record.

Record
What it is.

The Latine men vse *Recordar*, when they will signifie, to keepe in minde, or to remember: in which sence the Poet said:

Sir iſe audita recorder.

And after the ſame ſence alſo both our Law
uſe it. For Records be nothing elſe, but Me-
morials (or monuments) of things done before
Judges that haue credit in that behalfe. And
therefore, where King Edw. 1. doth in the be-
ginning of the Booke (called Britton) ſet forth
the Judges of his Courts, he ſaith of ſome that
they ſhould haue authoritie of Record: and of
others, that they ſhall beare Record: Both
which ſpeeches do meane but one thing, name-
ly, that they ſhall bee truſted in the report of
cauſes happening beſore them: and we yet ſay
in common ſpeech, Such a man ſhall beare re-
cord of a thing, when we intend to ſay, that he
remembreth it, and can beare witneſſe of it. So
that in the uſe of the word, there is (in maner)
no difference, and therefore let vs examine the
matter.

One man may affirme a thing, and another
man may deny it: but if a Record once ſay the
word, no man ſhall be receiued to Auerre (or
ſpeake) againſt it. For (ſaith B. Bracton, fol.
56. writing of a ſpeciall caſe, where the Sher-
iffe in his Countie hath Record) if men ſhould
be admitted to deny the inrolled acts of Court,
then would there neuer bee any end of contro-
uerſies. And of the ſame mind beſore him was
B. Glanville (lib. 8. c. 8.) And therefore to avoid
all contention that may ariſe, while one ſaith
one thing, and another ſaith another thing, the

C

Law

Law reposeth it selfe wholly and sololy in the report of the Iudge: & hereof it commeth, that he cannot make any Substitute or Deputie in his office) as M^r. Bracton and Britton do affirm) seeing that he may not put ouer the confidence that is put in him.

The Rolles
be Records.

This Record (or Testimony) is first contained within the breast of the Iudge (as our law speaketh) & afterward committed to 4 Rolles, which are therfore figuratiuely called Records also. For you may see (7. H. 6. 28. in Hildebrade case, 19. H. 5. 9. and elswhere) that during all the time of that terme, in which any thing passeth before the Iustices at Westm. the Record thereof is in *scrinio pectoris*, in their own hearts or breasts, so that they may at their own pleasure correct or amend it: but after the Terme ended, it is only in their Rolles, ouer the which they haue no controulment.

And this agreeth right well with that which Britton (fol. 3.) affirmeth, saying, in the Kings person, thus: And albeit that wee haue granted to our Iustices, to beare record of Pleas pleaded before them: yet by this wee will not that their Record shall be any Warrant in their owne wrong, nor that they may rase or amend their Roll, nor make record against their Enrolment.

Thus much generally of all Iudges of Record: now touching our Iustice of the peace, it is the opinion of the Court (9. E. 4. 3. & 14. H. 3.

16.) and of diuers other bookes in our late, that
every one of them (euen by himselfe) is a Iudge
of Record. For (as you haue heard) he is made
by the great Seale, a matter of Record, & hath
Judiciall power giuen vnto him, euen by the
first *Assignamens* of the Commission: He hath
also a seale of his office, by the opinion of Brud-
well, 14. H. 8. 16. and if he make any Warrant
although it bee beyond his authoritie, yet is it
not disputable by a Constable, or other inferi-
our ministers, but must be obeyed: And he may
take a Recognisance for the Peace, as appea-
reth 7. H. 4. 24. and common experience telleth,
which none can doe, but a Iudge of Record, be-
cause the knowledging of that summe, is to re-
maine as a matter of Record.

Yea, by good opinion (2. H. 7. 1.) a *Superfediis*
of the peace, made by one Iustice of the Peace,
vnder his seale, being brought into the Sessions,
is a sufficient Record to proue, that there is a
recognisance of peace taken by the same Iustice:
and it is warrant enough to call the partie
bound therupon, & if he make default, to record
the same. Moreover, his Record (or testimony)
is in some case of greater force and valne, then
an Enditement vnder the oath of twelue men:
for his Record (as I will shew particularly
hereafter, in place conuenient) shall conclude
the party so, that he shal not be admitted to tra-
uerse or gainsay it, 21. H. 6. 5. Fitz. 18. 15. R. 2.
22. 11. H. 7. c. 15. & 33. H. 8. c. 6.

Thus much being truly said of any one Justice of the Peace: most truly may it be affirmed, that two, or moe such Justices, sitting in the execution of their Authority, are Judges of Record.

Great cause haue the Justices of peace therefore, to take diligent harte, that they abuse not this credit: either to the oppressing of the subject, by making an untrue Record, or the defrauding of the king by suppressing the Record that is true and faithfull.

How long time the authority of the Commissioners of the Peace is to endure: and by what meanes it may be suspended, or determined.

CAP. XIII



We haue already touched, that the power of the Commissioners of the Peace is not perpetually, but now the place serueth to handle it at full.

The Commissioners of the peace, are to continue during only the pleasure of the King, by whose pleasure they were at the first appointed: and therefore, by the determination of that pleasure their authority ceaseth also. Besides the which, there are other meanes to determine their

their Authority, as namely, the Accession of another Office: the Presence of a higher power: and (in some speciall case) the want of Adjournment of their Commission.

The pleasure of the King may be determined By expresse either by expresse word, or by implication, or word by death.

The Kings Maiestie therefore, may discharge the Commissioners of the Peace by his expresse Writ, vnder the great Seale, L. 5. E. 4. 32. And if he send a *Supersedeas* to all the Commissioners of the Peace, that will suspend all their authority: But yet so, as it may be renewed by a *Procedendo*: & therefore it doth not utterly determine their authoritie, as may be gathered by 12. li. Ass. pl. 21.

Againe, when the Kings Maiestie maketh other Commissioners of the same kind within the same limits, it is implied thereby, (for avoiding of repugnancy in the service) that the former Commissioners shal have no longer power, although there bee neuer a word spoken of the discharge of them, 3. Mar. Reg. Brooke. *Tis.* Commission 24.

But yet, if there be Justices of the peace by Commission in a whole County, & afterward the King maketh another man Justice of the peace, in one towne of the said County, Chock onely against others, was of opinion (10. Ed. 4. 7.) that the power of the first Commissioners continued still in that towne, because that it

is not altogether contrariant. And Iudge Feneux held also, 20. H. 7. 8. that if the king make a proper Iustice of the peace within a special Libertie, yet may the generall Iustices of the peace of that Shire meddle there: vnlesse there be words of Prohibition in the Patent: as *quod nulli alij Iusticiarij nostri se intromittant &c.*

If the ancient Commission of the peace were to foure persons, & afterward the King should make one man a full Iustice of y^e peace through the same limit, during his life: then should the hands of the foure Commissioners bee closed, saith Mar.

And a new Commission, *pro hac vice tantum*, will determine the olde: So also a new Commission to heare and determine felonies, determineth the olde Commission of the peace concerning Felonies, but not concerning the peace: And a new Commission of the peace, *ad inquirendum tantum*, is a determination of the olde Commission, *ad audiendum & terminandum*, by Mar.

But it is plaine by the preamble of the Statute (2. & 3. Ph. & Ma. c. 18.) that the Law was taken, that if a Commission of the Peace were first graunted to certaine within a towne, and after another Commission had bene graunted to others within the whole Shire, that this had bin a *Superfedeas* to the Commissioners within the said Towne.

Notobest, this determination of the old Commission

mission (that we speake of) groweth not immediately by the making of a new Commission: but either after the reading (or proclaiming) of the new Commission at the Sessions of the Peace, or at the full County: or else by holding of some open Sessions by vertue of y^e new Commission (in all which cases the olde Commissioners must take notice of the new Commission) or els after the giuing of notice of y^e new Commission vnto the old Commissioners, for otherwise all the meane acts of the olde Commissioners, be good in Law, Mar. & 21. H. 6. 29. & 34 lib. Ass. Pl. 18.

And soasmuch as some Cities and Corporate towne found themselves grieved with the law (standing as hath bene remembred) it was specially ordained by the said statute (1 & 3. P. & Mar. ca. 18) that a Commission of the Peace and Gaole deliuey made to a city or corporate towne (not being a Countie by it selfe) should not bee determined by the making of such another Commission afterward to any of the Shire, Rath, Rape, or Wapentake, in which that city or towne standeth.

Finally, it is to bee noted, that in all cases where an ancient Commission of the Peace, is determined by a new: yet no Processe or Sute (hanging before the old Commissioners) shall be discontinued thereby. 11. H. 6. cap. 6. & 1. E. 6. cap. 7.

By the death or demise of the King, dieth also

the power of all the Commissioners of the peace made by him : so he maketh the *Iusticiarios* as : so that he being once dead, or having given ouer his crown, they are no more his Iustices : and the Iustices of the next king they shall not be, vnlesse he be pleased so to make them : 4. E. 4. 44. & 1. E. 5. 1.

Recession of
another office.

It seemeth that some tooke the Law to bee, that if a Iustice of the Peace were created a Duke, Marquesse, Earle, Vicount, or Baron, or were elected an Archbishop, or Bishop, or were made a Knight, or Iustice of any of the two Benches, or Sericant at the Law: that then his Office of the Peace was determined thereby : because it could not be thought, that (his name being changed) hee should remaine the same person: And so, if he were made Sherife, y his Iusticeship ceased also : because (as Mar. saith) he could not be both a Iustice and an Officer, to direct and serue his own precepts : and so likewise, was it thought of him, if hee were made a Cozoner, but not so if he were made an Underherife.

And therefore for explanation of the law in the most of these cases, it was enacted (1. E. 6. c. 7.) that if a Iustice of y peace were made a Duke, Marquesse, Earle, Vicount, Baron, Archbishop, Bishop, Iustice of y one Bench, or other, Knight, Sericant at the Law, or Sherife, that yet he should be Iustice of the peace still : But that Act was afterward vpon good reason controlled

controlled in part, and a new Law made (1. Mary Parl. 1. ca. 8.) by which it was ordered, that no man shall exercise the Office of a Justice of the peace, during only the time that he is a Sheriffe of the same Countie, wherein he is also Justice of the Peace.

Furthermoze, if the Justices in Eire, (being of a higher power then Justices of the Peace) doe (after a Proclamation thereof first made) come into any Countie, and sit there by vertue of their Authoritie: then ceaseth the power of the Commissioners of the peace: Mar. And he thinketh so likewise, if the Kings Bench (upon Proclamation thereof made) should remooue into any County. By the presence of a higher power.

But aske of this, so; if it should be so, then it may be some question also, what is wrought by the comming of the Justices of the *Nisi prius* into the Countie, who doe ordinarily bring Commission of Oyer and Determiner, and of Gaole deliuey with them.

Lastly, if Justices of the peace, that haue a Commission *hac vice tantum*, do sit by vertue of By want of *adiournem^t*. their Commission, & do not adiourne the same, it seemeth, that their Commission is determined thereby. Bro. 711. Commission 11.

THE

THE SECOND
Booke, containing the
 Practique of one Iustice of
 the Peace, out of the
Sessions.

That all the authority of the Iustices
 of the Peace is exercised, either out of
 the Sessions, or at (or by reason
 of) the Sessions of the
Peace, &c.

CAP. I.

*The summe
 of the first
 Booke.*



In the former Booke, I
 haue dilated that which
 lyeth in the first part of
 my Definition of the
 Iustices of peace: and I
 haue therewithal giuen
 y^e Reader a Theorique
 (or insight) as it were,
 of their whole Office, in shewing what it is,
 when hee began, how it is endowd, by what
 meanes it is maintained, and after what sort
 it may be determined.

But now forasmuch as all the power and
 seruices of those Iustices of the peace is directed
 to that end which is disclosed in the later halfe

of the same definition, namely, For the conseruation of the Peace, and for the execution of their Commission, and of the statutes committed to their charge, it is mete that I enter into the Practique of their Office & duty, and shew you from point to point how the same is to be done and ministred.

And for the more lightsome proceeding herein, I will set forth the power of the Iustices of the peace by a Distribution, though not Essentiall, yet such as may suffice to conuey my whole plot and meaning.

Whether therfore the Iustices of the peace, do (by vertue of the Commission, or Statutes) enquire, or heare and determine, by the way of Iurisdiction, or els do keep (or cause to be kept) the Peace, or do punish and execute, by way of Coercion; And whether the same also be done by their regular power, or absolute authoritie: It is alwayes practised and done, either out of the Sessions of the peace, or else at (or by reason of) the Sessions of the peace.

And that which is done out of the Sessions, is either such, as one Iustice alone may doe: or else it requireth the helpe and presence of other Iustices with him. And therefore, first of that which one Iustice alone may doe out of the Sessions.

What

What any one Iustice of Peace (out of the Sessions) may doe to preuent the breach of the Peace, and therein of Surety of the Peace, and the good Behaviour, and of sundry things incident vnto the same.

CAP. II.

The parts of
this Chapter.

AS much as the Conseruation of the Peace standeth, partly in providing that it bee not broken, and partly, in punnishing such as haue already violated and broken it: and so; that any one Iustice of the Peace is sufficiently armed with authoritie (out of the Sessions) to preuent the breach of the Peace, both by taking Suretie for the keeping of it, and so; the good Behaviour of offenders; I thinke good first to shew what Suretie of the Peace is: then to open how it may be commanded: after that, to declare how the same commandement shall be executed and brought to effect: fourthly, to disclose what shall become of the Surety when he is taken: and lastly, to describe the Surety of the Good Behaviour (or Good Abearing) and to conferre the handling thereof with that of the Peace.

The ancient Normans had a manner of Surety of the peace, which they named Treuers (the same

same that wee call Truce) and which they vsed to giue after this order. He of whom it was demanded, did (in open Court) take him by the hand that demanded it, & did withall solemnly sweare, that neither hee, nor any of his, should do harm vnto him. But our gouernors, knowing that euil men be moze restrained by losse of goods, then by conscience of an oath, haue vsed to take sure bond, & that to the King, for the securitie of such as be in feare. And therefore I will (at this day) call Suretie of the Peace, An acknowledgement of a bond to the King, taken by a competent Iudge of Record, for the keeping of the Peace. And it is called Surety, of the word *Securitas*, because the party that was in feare, is thereby the moze secure and quiet.

what Surety of the peace is

This Surety may a Iustice of the Peace command, either as a Minister, when he is willed to doe it by a higher authoritie: or as a Iudge, when he doth it in his own power deriued from his Commission.

He doth it as a Minister, when the Writ of *Supplicavit* (which in olde time was called *Breue de Minis*, as appeareth by the Register) directed out of the Chauncery, is deliuered to his hands: for then, he only is to direct his Precept to compell the party (vpon that writ) to finde Suretie for the peace. 1. H. 7. 20. Fincux.

Surety of the Peace taken vpon a Supplicavit, by a Justice of the Peace as a Minister.

The forme of which Precept (or Warrant) may be thus in English.

GEORGE



GEORGE MVLTON, one of the Iustices of Peace of our Soueraigne Lord the Kings Maiesty within the Countie of Kent: To the Sherife of the said Shire, the Constables of the Hundred of *Wortebam*, the Borsholder of the Towne of *Ightham*, and to all and singular the Kings Maiesties Bailifes, and other Ministers, as wel within Liberties as without, in the said Countie, and to euery of them greeting: Know yee, that I haue receiued the Commandement of our said Soueraigne Lord in these wordes (reciting the whole Writ of *Supplicauit*, which is not alwayes of one foyme, because it is sometimes directed to all the Iustices of the Peace, sometime to them and the Sherife, and sometimes to one Iustice alone) or reciting onely the effect of the *Supplicauit* thus.

Know yee, that I haue receiued the commandement of our said Soueraigne Lord, to compel *A.B.* of *Ightham*, in the said Countie yeoman, to find sufficient Suretie for his Maiesties peace by him to be kept toward *C.D.* of the said towne of *Ightham*, Taylor: And therefore on the behalfe of our said Soueraigne Lord, I commaund and charge you ioynctly and seuerally, that immediately vpon the receipt hereof you cause the sayd *A.B.* to come before me at my house in *Ightham* aforesaid, to find sufficient Surety and mainprise for

for the Peace to be kept towards our said Soueraigne Lord, and all his liege people, and especially towards the said *C.D.* And if he the said *A.B.* shall refuse thus to do, that then you him safely conuey, or cause to bee safely conueyed to the next Gaole of his Maiesty in the said Countie, there to remaine vntill that he shal willingly do the same: So that he may be before the Iustices of the Peace of our said Soueraigne Lord within the said Countie at their next general Sessions of the peace (to be holden at *M.*) there to answer to our said soueraigne Lord for his contempt in this behalfe. And see that you certifie your doing in the premisses, to the said Iustices of the said Sessions bringing thenthither this Precept with you. Yeouen at *Ightham* aforesaid, vnder my Seale the fourth day of &c.

A Justice of the peace may also (by vertue of his office, and as he is a Judge) command this Surety to be found: and that, either of his own motion and discretion, or els at the request and prayer of another.

Surety of the Peace taken by a Justice of the peace, as a Judge.

For he may cause a common Barreror, Rye-
tor, one that maketh an Asscay, or other person to him suspected, to finde Suretie of the Peace 9. Edw. 3. *Curia.* And if hee see men contending in hote words, and threatening the one to hurt (or kill) the other, he may of discretion, and ought of duetie (as I thinke) to command them to finde Suretie of the Peace, and

By his own discretion.

and thereby prouide for their mutuall safetie.

For as he is put in trust with the care of the Peace, so ought he both to imploy his wit, and to vse his authoritie, to pzenent the breach of the same.

And if a man that was bound to keepe the peace, haue broken his bond, the Justice of P. ought of discretion to bind him of new, 21.E. 4. 40. & Marr.

And his authoritie is so little to be controlled in this matter, that P. Marrow is of the opinion, that if a Justice of the peace should procure one man to demanda Suretie of the Peace against another, and hee himselfe should graunt a Warrant for it, by which the partie is arrested, yet no Action would lie against that Justice for his so doing, because hee might haue granted it without any demand made: & then it shall not be said, but that he saw cause both for to prouoke the party to aske it, and for himselfe to grant it.

Surety at the request of another.

In commanding this Surety (at the suit of another, or of his owne discretion) sundry things are wisely to be considered: First, for whom, and against whom: then, for what cause, and how it ought to bee required or commanded: and lastly, by what meanes it shall be imioyned.

For whom, & against whom Surety of the peace lyeth.

The wife (if she be threatned to be killed, or to bee outragiously chastised by her Husband) may with good reason demand y peace against him,

him, *Fitzh. Na. Br. fo. 80. & 230.* And I doe not doubt but that a Justice may (in such a case happening in his presence) command it upon his owne discretion.

The husband also may demand the peace against his owne wife in like case: and any man may demaund it against the wife of another, *Marrow.*

A man attainted of Treason, or Felony, or convict of Heresie, or Abiured, a Dumbe man, or an Infant (though within 14. yeeres of age) or a Villaine against his Lord, may demaund, and ought to haue suretie of the Peace, *Marr.* And I doe not find any strong reason, why the Lord against his Villaine, or another man against a Dumbe man that is not deafe, or against the Infant about the age of 14. yeeres, ought not (upon good cause) to haue it, though perhaps the tyme last cannot be bound so; themselves. But a Mad man sh^l not haue Surety of the peace, at his owne request (as *D. Marr.* thought) because he hath no discretion to aske: and therfore (if there be cause) he ought to be bound so; by the discretion of the Justice, as I thinke.

Neither shall Suretie of the Peace be granted against a Mad man, except ye haue *Lucida intervalla*, that is to say, certaine respites and times from his Lunacie, in which hee may come to haue the vse of reason and right iudgement.

A man attainted in a Præmunire, or that is an Alien borne (and no Denizen) ought not to haue this Surety at his desire, as *Sp. Marr.* telleth it: but perhaps hee would haue changed his opinion, in the case of Præmunire (if he had liued at this time) vpon sight of the Statute *Eliz. cap. 1.* for such a man may not now be killed, as though hee were out of the protection of the King: and as touching the Alien, some thinkes there ought to be a difference, betwixt such an Alien as is of the Enmity of the King, and him that is of his Amity, for the Statute (*Mag. Cart. ca. 3 e. 9. E. 3. ca. 1. 14. E. 3. Stat. 1. 2. and sundry others*) doe all vse that difference in Merchant Strangers, and doe prouide, that such of them as be not Enemies to the Realme may both safely come into the Realme, and tarry heere, and goe hence, at their free pleasures.

But the case may beare some doubt, because the Commission it selfe seemeth to authorize the Justice of peace, no further then to prouide for the Kings people, of which number no Alien seemeth to be. But, why any Alien may not bee bound to the Peace, I doe not yet understand.

Furthermore, one Justice of the peace (*said Sp. Marr.*) may grant this Surety to any man against one of his fellow Iustices. But as *Sp. Marr.* requireth a Discretion in a Justice of the peace, when Surety is craued of him against
 Shere

Sherrife, Coroner, Escheator, or such other Officer (to whom he wisheth not to be bound to keepe the Peace, *versus cunctū populū*, but onely towards him that prayeth it, least otherwise it should argue them to be unworthy of such Offices) so, much moze hee ought to be good discretion, in granting it against his fellow Justice, lest otherwise he doth bring the Office in contempt, and himselfe to reproche by it. But I doubt not, that one Justice of Peace (if he will) may pray Suretie of the Peace at the hands of his fellow Justice against another person: and the Recognisance may then be according to the common forme, with *Es precipue versus &c.*

Witherte of those, for whom, and against whom, the Justice of Peace, may graunt this Suretie when it shall be required: which will suffice to give him light what to doe in other like causes.

But some others there bee perhaps, with whom hee may not well meddle: As if a man haue cause to require the peace against a Lord: hee so; so small a cause is not to bee arrested (as I take it) by Warrant from a Justice, nor yet by a *Supplicavit* out of the Chauncerie. But the Lord Chancelor may in such case grant to the partie a *Subpoena* against that Lord for the Peace, as it seemeth by 35. H. 6. Fitz. Tit. *Subpoena* 20.

Surety of the
peace against
a Lord.

For, such an opinion hath the law conceived

of the peaceable disposition of Noblemen, that it hath bin thought enough to take one of their promises vpon Honour, that hee would not breake the peace against a man. Brooke *Titulis Contemptis*. 6. 17. Ed. 4. 4. and 24. Ed. 3. 33. and *Subpoena*. Fitzher. 20. But whether the Lord Chauncello; may award an Attachment vpon such a *Subpoena*, it hath bene (in our memoies) made a question.

And if there bee cause to aske the Peace against one that dwelleth in the Cinque Ports, that must be by Writ out of the Chancery, directed to the Constable of Dover, & the Warden of the Cinque Ports, Fitz. Nat. Bre. 80. & Regist. 88.

For what
causes Sure-
ty of the peace
may be requi-
red.

The cause, for which this Surety of the peace may bee required (or commaunded) appeareth in the first *Assignimus* of the Commission of the peace, in these words: *Et ad omnes illos qui aliquibus vel alicui de populo nostro de corporibus suis, vel de incendio domorum suarum minas fecerint, et sufficientem securitatem de pace &c. inueniendam &c.* which M. Fic. (fo. 8.) construeth thus: He that is threatened that he shall be hurt in his bodie, or that his house or goods shall be burnt, may demand Suretie of the Peace for his safeguard in that behalfe. But (saith the Court, 17. Edw. 4. 4.) If a man will demand the Peace, because hee is in feare that another man will take and imprison him, it ought not to be graunted: and one yeeldeth the reason to be,

by

because he may haue a *Writ De homine replegi-*
ando, or an Action of false imprisonment, and
 may thereby recouer the damages of his im-
 prisonment.

The same reason might be made against the
 demand of the Peace, where a man is threat-
 ned with Battery: and yet it is cleare, that in
 such a case the Suretie of Peace ought not to
 be denied him: and truly to threaten imprison-
 ment, is within the words, *Minas de corporibus*
 no lesse then Battery it selfe: and like harme
 may happen by hard imprisonment, and cruell
 beating. It shall be good therefore, to enquire of
 this matter.

But I take it somewhat cleere, that a Justice
 of the Peace may not (by this Commission) a-
 ward a Wrecept of the Peace, in the behalfe of
 a man that will require it, because he is at va-
 riance with his Neighbour, or feareth that hee
 will doe harme to his seruants, or cattell. For
 in that case *q. Fitzh.* helpeth him with an old
Writ to the Sherife, as he findeth it in the Re-
 gister. *Fitz. Nat. Br. 80.*

The Peace being thus (for good cause) requi-
 red, it is the common manner to exact an oath of the partie: whereby the Justice may be the
 better informed and led to thinke, that he doth
 not aske it for malicious veration of another,
 but of very feare, and for the needfull safetie of
 himselfe, and his. And *q. Fitzh.* (in his *Nat.*
Br. fol. 79.) laboureth to shew, that the Justice
 By Oath.

How Surety
 of the Peace
 is to be re-
 quired.

tes of the Peace ought not (without such an oath) to graunt this Surety at the suite of any man: Forasmuch as not onely the Judges at the Kings Bench do yet take an Oath in such case, but the auncient course of the Law was such in the Chancery it selfe also, although it be now a dayes otherwise used there.

Now, that a Justice may in this case the better iudge of this Feare, let him hearken what *Sp. Bracton* (fol 16.) saith: *Metus est* (saith he) *presentis, vel futuri periculi causa, mentis trepidatio: talis enim debet esse metus, qui in se continet mortis periculum, vel corporis cruciatum.* And therefore if a Justice of the Peace do perceiue, that the Peace is demanded against such a person, as for his impotency is not like to breake the peace, he may safely deny it, saith *Sp. Marrow*: *But Satius est peccare in alteram partem, as I suppose: least (if he be slaine that demanded it) the Justice be woorthily blamed, for that he prouided not for his life and safetie.* Besides all which, the common forme of the Recognisance, is to binde a man from procuring hurt, the which any impotent man is sufficient to accomplish.

By what
meanes surety
of the Peace
shalbe enioyned.
By word.

It resteth, that I shew by what meanes this Surety may be enioyned: and this is, either by Word, or by writing vnder seale. For a Justice of the Peace may by word only command a man (being in his presence) to finde Surety of the Peace, 9. Edw. 4. 3. for, seeing that he

is a Judge of Record (saith 99. Firz. fol. 8.) his precept by mouth, is stronger then his precept by writing.

So, if the Peace bee demanded against one that is in his presence, he may command the Sherife or other knowne Officer, or his owne servant (if they bee then present also) to arrest the party to find this surety, 14. H. 7. 8. & Mar. For it is not so much the arrest of the Minister, as of the Justice himselfe.

But if either the Officer, Servant, or party be absent, then it is requisite to make a Warrant (or precept) in writing: The forme whereof may be thus in English: For, I see no cause yet, why it should bee directed in Latine, to a Constable or Boztholder, that (by all presumption) vnderstandeth no Latine at all.

By writing.

JAMES by the grace of God, &c. To our *Kanc.*
 Sherife of *Kent*, the Costable of the Hundred *The precept*
 of *Wrotham*, the Boztholder of the Towne of *for the peace.*
Ightham, and to all and singular our Bailifes,
 and other our Ministers in the said Countie,
 as well within Liberties as without, Greeting.
 Forasmuch as *A. B.* of *Wrotham*, afore-
 said, Yeoman, hath personally come before
George Bing of the said Towne Esquire, one of
 our Iustices of the Peace within the said Countie,
 & hath taken a corporal oath, that he is afraid
 that one *C. D.* of *Shipborne*, in the said Countie
 Yeoman, will beate, wound, maim, or kill him,

or burne his houses, and hath therewithall pra-
 ised suretie of the Peace against the sayd C. D.
 Therefore we command and charge you ioyn-
 ly and severally, that immediately vpon the re-
 ceit hereof, you cause the said C. D. to come be-
 fore the said G. B. or some other of our said Iu-
 stices, to find sufficient Suretie and Mainprise, as
 well for his appearance at the next Quarter
 Sessions of our Peace to be holden at M. in the
 said Countie, as also for our Peace, to bee kept
 towards vs, and all our liege people, and chiefly
 towards the said A. B. that is to say, that hee the
 said C. D. shall not doe, nor by any meanes pro-
 cure or cause to bee done, any of the said evils, so
 any of our said people, and especially to the said
 A. B. And if he the said C. D. shall refuse thus to
 doe, that then immediately without expecting a-
 ny further Warrant, you him safely conuey, or
 cause to be safely conueied to our next prison in
 the said County, there to remaine, vntill he shall
 willingly doe the same: So that hee may be be-
 fore our said Iustices, at the said next generall
 Sessions of the Peace to be holden at M. afore-
 said, then and there to answer vnto vs for his
 contempt in this behalfe. And see that you certi-
 fie your doing in the Premisses to our said Iusti-
 ces at the said Sessions, bringing then thither this
 Precept with you. Witnesse the said G. B. at Wrea-
 theam afore said, the fourth day of August, &c.

Do thus, in the name of the Iustice himselte,
Mutatis Mutandis.

Edward Wotton Knight, one of the Iustices *Kanc.*
of the Peace of our Soueraigne Lord the
King, within the said Countie, to the Sherife,
&c. greeting.

Forasmuch as *A.B.&c* hath personally come
before me, &c. These shall bee therefore on the
behalse, and in the name of our said Soueraigne
Lord, to command you ioyntly &c. to come be-
fore me, or one other of his Maiesties said Iusti-
ces of the Peace in the said Countie, &c. Given
vnder my seale at *W.* aforesaid, &c.

It is mete that the Wrecept for the Peace
doe expressely containe the clause of the Peace,
within it: for otherwise, how can the Officer
or partie take knowledge that suretie must be
prouided for it? Yea, (by the way let me say it)
every Wrecept (made by a Iustice of the peace)
ought to comprehend the speciall matter vpon
which it proceedeth: even as all *h* Kings writs
doe beare their proper cause in their mouth
with them. And as for their forme that is now
commonly vsed (to answer to such things as shal
be objected, & such like) they were not fetched
out of the olde learned Wrecedents, but lately
brought in by such as either knew not, or cared
not what they writ.

The Warrant of the Peace is the better also
if

if it beare date of the place where it was made: for if a man be to pleade such a W^{re}cept for his Excuse in an Action of False Imprisonment brought against him, he ought (in his Plea) to shew the place where the Warrant was made 14.H.8.18.

And this W^{re}cept may also be directed to any indifferent person by name, though he be no Officer at all: for so it seemeth to be permitted in the oath of the Iustices of the Peace, and so is that Booke also, 14.H.8.18.

The which libertie the Iustices in some shires doe vse & take, accustomably directing their W^{re}cepts to private men of their owne election and choise: But yet I take our Kentish course to be the safer way, where we commonly write to the Sworne Constables, and W^{re}sholders only.

How the commandment of the peace shall be executed.

The commanding of Suretie of the Peace hath thus appeared: and now the Execution, and byinging of that commandment to effect must next be disclosed.

The execution of this p^{re}cept standeth partly in serving the W^{re}cept it selfe: and partly, in taking the Recognisance, if the partie doe come with Sureties, and if there bee no let in the way.

And because (for the most part) there is but one and the same maner of doing, whether the W^{re}cept come from the Iustice of the peace, as he is a W^{re}inister, or as he is a Judge, I also will

will handle them together, noting by the way, those few differences that shall arise betwene them.

If such a Precept be made jointly to twaine, *The serving of the Precept for the peace.* yet the one alone may serue it: if it be directed to the Sherife, then he may command his Bailife, Undersherife, or other swaren and known Officer, to serue it, without writing any Precept. But if he will command another man (that is no such officer) to serue it, he must giue him a written Precept: for otherwise a writ of false imprisonment will lie for the Arrest. And if it be directed to the Bailif, or to a seruāt of a Justice of the Peace, or other stranger, they must serue it themselves: for they can command none other to doe it, neither by word nor Precept. Marrow.

A swaren and known Officer needeth not to shewe his Warrant, when he doth serue it vpon a man, 8. Ed. 4. 14. and 20. H. 7. 13. &c. for his Office doth (after a sort) authorize him. But if the Justice wil let his seruāt to serue it, that seruāt must shew the Warrant, if the partie demand it: and otherwise the party may make resistance, 8. E. 4. 14.

A Justice of the Peace (saith W. Brooke, *Tir. Peace* 9.) may make this Warrant returnable befoze himselfe, and the Bailife needes not to carry the partie befoze any other Justice: But Judge Fineux (21. H. 7. 20.) saith, that if a Justice of the peate do make a warrant of \bar{p} peace,

Ex

Ex officio, (that is, without any *Warrant* of *Supplicans* awarded) then the partie may choole to appeare befoze him, or any other Justice in the Shire: & that he shal punish the Bailife in false imprisonment, if he do other wise, compell him: Otherwise it is in the execution of the *Warrant* of *Supplicans*: for he alone to whose hands it first cometh, is authozised to execute and returne that *Warrant*. And thereupon *Sp. Fitzh.* (in his *Nat. Br. fol. 81.*) affirmeth, that if such a *Warrant* of *Supplicans*, be deliuered to the Sherife, then he may both execute it alone, & also take surety by Recognisance, which otherwise (being but a *Conservator*) he could not do, because the *Warrant* doeth so enable him, yet *Littleton* (9. *Ed. 4. 31.*) is to the contrary.

The Officer ought also to require the partie to come and finde Suretie of the Peace, befoze that hee doe arrest him, by the opinion 5. *E. 4. 31.* And in trneth, the common forme of the Precept is, And if he refuse &c. then hee shall conuey him to the Gaole: And therefore if hee yeld to come and to finde Suretie, the Officer may neither absolutely arrest him, nor take any fee of him.

And this may bee the cause, that when one appeareth vpon such a *Warrant* befoze the Justice of peace, the Justice needeth not to demand suretie of him, but may commit him, if he doe not offer Suretie, 4. *H. 7. 9.*

If a Bailife do arrest a man for the peace, be-
foze

soz that hee haue any Warrant, and then afterward do procure a Warrant for it: this notwithstanding is unlawfully done, and will not excuse him in an action of false imprisonment: *ibidem*: but if the Bailiffe do cause one (by force of a Warrant) to come and find Suretie of the Peace, and when the party is brought, the Justice will not bind him, yet the Bailiffe is excused, 21.H.7.22.

If Suretie of the Peace be required at the hands of a Justice of the Peace (that dwelleth out of the Countie) against a man within the Countie, the Justice may grant a precept to be served in the County: but when the party shall be thereupon warned, and commanded to find surety, the officer may not carry him out of the County to the Justice of the Peace that made the warrant. Mar. For a Justice of the Peace hath no authority, but in the County where he is Justice. 13.E.4.8. & *Cement. Plowd.* 37. and therefore it may be doubted also, whether such a Warrant be good or no.

The Case was there, that a Justice of Peace in one County, pursued a Felon and took him in another County, whereupon it was holden, that he ought to be committed to the Gaole of the Countie wherein he was taken, and not of the County wherein he which took him was a Justice: soz that, he (being out of his County) had no more authority then a private man. But yet, the Bailiffe may not dispute the *Insufficiencie*,

ciencie, or insufficiency of such a Warrant, because he that awarded it, is a Judge of Record 14. H. 8. 18.

That which hath been hitherto said, is of the execution of the former part of the warrant for the peace, that is to say, To warne and cause the party to come and finde Suretie for the Peace: But if it fall out, that he refuse to come and put in such surety, then may the Officer, by vertue of his Warrant conuey him to prison: For (if you remember) the words are, And if hee shall refuse, then &c. And if he adde resistance to this refusall, and make assault vpon the officer, then may that officer iustifie the beating or hurting of him, 21. H. 7. 39. Fineux. But for our better proceeding, let vs here consider what an arrest is.

Beudee in his Græke Commentaries, is of the opinion, that the French word (Arrest) which with them signifieth a Decree, or Iudgement of a Court, toke beginning of the Græke Arreston, that is, *placitum*, and (as we might say) the pleasure (or will) of a Court.

And albeit that it were not out of our way, to thinke that it is called Arrest, because it stateth (or resteth) the party: yet I beleue rather that wee receiue the name from the Roman Lawes, because wee vse it in the same sence with them: for commonly (with vs) an Arrest is taken for the execution of the commaundement of some Court, or of some Officer in Iustice. But howsoever the name began, An Arrest

rest is a certaine restraint of a mans person, depriving it of his owne vvil & liberty, & binding it to become obedient to the vwill of the Lawver and it may be called the beginning of imprisonment. The Precepts and Writts of the higher courts of Law, do vse to expresse it by two sundry wordes, as *Capias* and *Attachias*, which doe signifie, to take (or catch) holde of a man. But this our Precept noteth it by the wordes, *Duci facias*, cause him to bee conueied &c. for that the Officer hath (after a sort) taken him before, in that he cometh vnto him, and requirerth him to goe to some Justice of the peace.

To this Arrest, all lay persons (vnder the degree of Lords, or Peeres of the Realme) be subject: and Ecclesiastical persons (if they bee not attendant vpon diuine seruice) may be arrested for the Peace also, Mar.

The end therfore is, that if the party wil not come to finde Surety of the Peace, the Officer may (vpon that Warrant) arrest and cary him to the gaole, where he shall remaine, vntil that he will freely offer, and find it.

And here it is good to be enquired, whether the Release (or Deatch) of him that prayed the Peace, will not bee sufficient cause to deliuer such a prisoner: and if it shall be, then by what order he shall be deliuered. For as it seemeth to some, that any Justice of the Peace may (vpon his offer) take the Surety, and deliuer him: so it may bee some doubt, whether he may bee

Deliuery of him that is imprisoned for refusing to find Surety;

de.

deliuered (vpon the death, or release of the partie) without the helpe of a Sessions or Gaols deliuey.

It appeareth (4. E. 4. 18.) and by the opinion of Brian, 1. H. 7. 2. & 4. that if such an imprisonment had a suit hanging in the Common Place aforesaid, he might by a Writ of Priviledge be discharged of the imprisonment, if the party (at whose suite hee was arrested for the peace) were not ready in court at the day of the retorne of the Writ when hee should be called to pray there againe the suretie of the Peace against him: and he saith, that it had beene alwayes the common course so to doe: but other there were of a contrary opinion.

And it seemeth a hard a case, that without any sufficient notice of such a removing of the partie, a man should bee defeated of his suretie for the peace.

To what Justice he that is arrested, may goe.

But now (to goe forward) if the party shall yelde: or finde surety of the peace, then may hee be at his libertie (if the precept proceed *Ex officio* and without the writ of *Supplicamus*) to go to any other Justice of the peace, to offer his suretie. For such (as I tolde you before) is the opinion of the Judge Fincux 21. H. 7. 20. though master Brooke (Peace 9. & Faux imprison. 11.) liketh better to giue the election thereof vnto the Officer.

And I doe remember, that a Justice of the Peace was (by order in the Starre-Chamber, thrust

thrust out of the Commission, onely because he refused to accept Surety of the peace, offered vnto him, vpon a warrant awarded by one his fellow Justice, to whom the party (as he alleged) durst not goe to giue it, so; fears that he; would execute vpon him the malice that hee bare against him.

But here againe the Officer had need to bee advised, lest he find much trouble in following the party, whether he shall please to leade him. For as there may be iust causes to yeld vnto the request of a man y; shal dislike to be brought before that Justice which gaue out the Warrant, either so; some matter of priuate displeasure, or so; the great distance of his dwelling, or so; other reasons: So yet (without good allegation made) I allow not, that the Officer shal be drawn out of the Division and Limit where both he and the party do dwel. For in so doing, the Officer, and not the offendo; may seme to be punished by the lawe.

Hereupon also it happeneth often, that such persons (choosing rather to bee bound by any other, then by him that maketh the Warrant) do offer themselves, and doe become bound before some other Justice: and do withal procure a *Superseas* from him to be discharged of any other arrest to bee made vpon them. Yea, and many times (hearing of such Precepts & mistaking to be bound in the Countrey) then go vp to Westminster, and giue Suretie of the Peace there,

there, either in the Kings Bench for a time only (as the manner of that Court is) or in the Chancery for ever, or for a time (as they use it) and do thereupon procure a *Superfedeas* from the Court where they are bound, to close the hands of the Country Iustices. And therefore it is not amisse to say somewhat of this matter of *Superfedeas* thus falling in the way.

*Superfedeas
by a Justice
of Peace.*

If therefore a Justice of the peace, will (by *Superfedeas*) discharge a precept for the peace (awarded by his fellow Justice, by vertue of his Office, & not by force of a *Supplicavit* which is of a higher nature, and cannot bee so answered) then shall hee doe well to take the Recognisance after the selfe same sort, in all points as the forme of the former Precept doth require.

For, as it is good reason, that (having taken Suretie for the peace) hee may by his *Superfedeas* save the party from finding other Sureties for the selfe same cause: So is it not reasonable, that hee should proceed otherwise, then according to the first Precept: and thereby discharge a matter of Record that was made by one of equall Authority with himselfe. Fiezh. Fol. 9.

But this *Superfedeas* (sent by a Justice of the Peace) is sufficient, although it neither names the sureties, nor contain the summes in which they are bound: Yet is it the better forme to suppress them both: as well because the higher Courts

Courts use so to doe, as also that if the Bailiffe, Constable, or other officer (to whom it is delivered) be called at the next Sessions (by the suit of him that ought to haue the Peace) to shew how he hath executed his warrant, and do come in and shew forth the *Superfedeas*, then the partie that is bound may bee called thereupon at the day that appeareth to bee limited vnto him by the *Superfedeas*: for it is vnder the seale of a Justice, and doth testifie that the partie is bound, and hath found Suretie, to appeare at a certaine day: And if hee make default, that (being recozded) shall be sufficient to cause him to forfeit the penaltie of the Recognisance, although the Justice that awarded it, shall omit to bring in the Recognisance it selfe, according as he ought now to doe by the Statute, 3. H. 7. cap. 1.

And this may be gathered vpon the opinion of Hen. 7. and may also be seene by this forme of the *Superfedeas* here vnder written.

WILLIAM SEDLEY Esquire, one of the Iustices of the Peace of our Soueraigne Lord the King, within the Countie of Kent, to the Sherife, Bailifes, Constables, Borsholders, and other the faithfull Ministers, and Subiects of our said Soueraigne Lord within the said Countie, and to euery of them, sendeth greeting: Forasmuch as A.B. of &c. Yeoman, hath personally come before me at *Alasford*, &c. and

*The forme of
a Superfedeas,
by a Justice
of the peace,*

hath found sufficient Suretie, that is to say, *C.D.* and *E.F. &c.* Yeomen, either of the which hath vnderaken for the said *A. B.* vnder the paine of xx. li. and hee the said *A. B.* hath vnderaken for himselfe vnder the paine of xl. li. that he the said *A. B.* shall well and truly keepe the Peace, toward our said Soueraigne Lord, and all his liege people, and specially towards *G. H. &c.* Yeoman, and also that hee shall personally appeare before the Iustices of the peace of our said Soueraigne Lord within the said Countrey, at the next generall Sessions of the Peace to be holden at *M.* there: Therefore, on the behalfe of our said Soueraigne Lord, I commaund you, and euery of you, that yee vterly forbear and cease, to arrest, take, imprison, or otherwise by any meanes (for the said occasion) to molest the said *A. B.* And if you haue (for the said occasion and for none other) taken, or imprisoned him, that then you doe cause him to be deliuered and set at libertie, without further delay. Yeouen at *Alresford* aforesaid vnder my Seale, this last day of Iuly, &c.

This Supersedeas may also bee in the name
of the King, vnder the Teste of
the Iustice of the Peace,
thus:

JAMES, by the grace of God &c. to the
Sheriffe &c. greeting. Forasmuch as *A. B.* had

com

come before *Thomas Fane* Knight, one of our Iustices of Peace within our said Countie, and hath found, &c. We therefore command you and every of you, that ye forbear &c. Witnesse the said *T. F.* &c.

Thus much of the *Superfedeas*, issuing from a Justice of the Peace, the which ought to withhold and stay the proceeding of his fellow Justices in the said cause: Insomuch that if any Officer by any of their Warrants, having this *Superfedeas* deliuered vnto him, will neuertheless vze the party to find new Surety for the peace, he may refuse to giue it, & (if hee be committed to prison for such his refusal, he may (as I think) haue his Action of False imprisonment against the Officer vpon the same.

I read (21. E. 4. 40.) that a *Superfedeas*, proceeding out of the Chauncery, will discharge a surety of peace taken before the Justices in the Bench of the King: Much more then, will a *Superfedeas*, sent out of the Chauncery, or the Kings Bench, discharge a Wrecept for the peace that is awarded from an inferiour Justice of the Peace. And if the Justice of the Peace to whom a *Superfedeas* out of such an high Court shall be deliuered, will not thereupon surcease, an Attachment may bee awarded against him for his contempt, and hee may be imprisoned and fined for it.

Superfedeas
out of an high
Court.

It is good counsell therefore, that *Sp. Firzh:*

in his Na.Br. fol. 238. giveth, where he willes the Justice of the peace (after such a *Superfedeas* receiued) to forbear to make any Warrant to arrestt the party: and if they haue awarded it, then to make their owne *Superfedeas* to the Sherife and other Officers, thereby commanding them to surcease to put it in execution.

The taking of
a Recogni-
sance for the
peace.

This impediment of *Superfedeas* (lying after this sort, as you haue seene, in the way to the Justice of the Peace) thus passed ouer, let vs now suppose the party serued with the precept to come before some Justice of the peace: and let vs enter into the taking of the recognisance of him: so that is one part of the execution of the Warrant of the peace, and may do seruice, whether the partie come to him that made the Precept, or goe to any other.

If the Justice of the peace deale in this matter, as a Judge, and by vertue of his commission, then the number of the Sureties, the sum of their bond, their sufficiencie in goods (or lands) the time how long the partie shall be bound, and such other circumstances, are referred wholly to his whole consideration: and if he be deceined in the ability of the Sureties, hee may compell the partie to put in others, Marr. For the anoiding of which deceit also, the Justices of the Common place (7. H. 6. 25.) doe examine the abilitie of the Sureties vpon their Oathes, &c.

The common manner is, to take two Sureties

ties besides the partie himselfe: and good reason it is that those should be such as have their names registred in the booke of Subsidie: for albeit that here & there some may be sufficient that were not assessed to the King, yet it standeth not well together, that hee should become bound to the King in x. or xx. pounds, that was not in the Subsidie found worth any thing at all. And, if case may be such that Sureties only, not the principall partie shall give the Bond: For if the peace be praied against a wife, or an Infant vnder the yeres of discretion, they shall be bound by their Sureties onely, as was the Monke, or Chanon, 36. H. 6. 23.

But if the Justice of peace shall command the peace as a Minister in execution of the writ of *Supplicavit*, then must he behaue himselfe as the writ it selfe directeth him: and that hath not bene alwaies after one manner.

For some forme commandeth him to take sufficient Manucaptors, in any paine or summe to be reasonably set by himselfe, so that he will be answerable for it at his owne perill: & some willoeth him to take sufficient Suretie, in a summe certainly prescribed vnto him, as an hundred pounds in all, or euery of them in xx. li. as it may be seene at large, in the Register of Writs, fol 89.

A Justice of the Peace (saith M. Marr.) may take this Surety by a Cage, or Pledge, which shall not be forfeited thereby, but patoned only,

so that the party shall (vnder a certaine paine) keepe the peace, which paine he shall forfeite, if he breaks the peace. And (by his opinion) a Justice of the peace may also take this Surety by an Obligation made to himselfe, by the name of Justice of the peace: For so shall it be (saith he) *ad vsu[m] Domini Regis*: But if it were made vnto him without his name of Justice of the Peace, then it could not be to the vse of the King, vnlesse it had the wordes, *Ad vsu[m] Domini Regis*.

M. Fitzh. on the other side (in his Nat. Bre. fol. 81.) holdeth, that such an Obligation taken to the King, by a Justice of the Peace, is nothing worth: for a man cannot be bound to the King (saith he) but onely by matter of Record: vnlesse he will afterward come into a Court of Record, and confesse it to be his debt, and pray that it may be enrolled there.

But the new Statute (33. H. 8. cap. 39.) hath made a plaine law in these cases, and telleth that all Obligations and Specialties (made for any cause touching the King) shall be made in his owne name by the wordes, *Domino Regi*, and to none other person to his vse. And it ordaineth further, that such bonds shall be of the nature of a Statute Staple: and that if any person take any Obligation otherwise, he shall be imprisoned at the pleasure of the King, or of his honourable Councell.

The safe way therefore, is to take this Surety

by Recognisance, as is commonly vsed, and that also by the words, *Damno Regi*: and then (upon the forfeiture therof) the King shal haue execution accordingly.

Now, if a Recognisance be meant to bee taken for the peace, by a Justice of the peace, and yet doe not containe within it, (or in the condition thereof) that it was taken For the keeping of the Peace: it seemeth to bee voyd, as being then taken *Coram non iudice*: because a Justice of the Peace hath not power to take Recognisances generally, but for matters concerning his Office specially. And therefore M. Marrow addeth further, that if the Recognisance bee, That the recognosor shall not maim nor beate A. yet it is not good, because it ought to be For the keeping of the peace, and that may be broken otherwise, as by burning of the house of A. or by the like misdemeanour.

Although this Recognisance doe not comprehend any time of appearance, but bee generally to keepe the peace: yet it is good in Law (saith M. Marrow) because the chiefe scope is, the keeping of the peace, and the time is referred to the discretion of the Justice: But, as it was moued (2. H. 7. fol. 1.) whether the Justice of Peace ought to bring in the Recognisance to the *Custos Rotulorum*, that the partie might be called vpon it: So, by the Statute (3. H. 7. cap. 1.) it is plainly enacted that every Recognisance (taken for the Peace) shall bee certified at

at the next Sessions of the Peace, that the partie may thereupon bee called, and his default (if any happen) may be recorded. Wherby it seemeth that every Recognisance of the Peace, ought now to containe the appearance of the partie at the next Sessions.

And otherwise, there may be some mischief: For if the party shall not so appeare, he is at liberty (without a new arrest) and not forth coming to be bound ouer, if it be so required.

And (by *W. Marrow*) if the Recognisance containe a day of appearance, & yet haue no person named, befoze whom the party so bounden shall appeare: then may hee appeare where he will befoze the Iustice of the peace which tooke the Recognisance of him.

Againe, if the forme of the Recognisance be in twentie pounds, to bee leuyed onely of the goods, or onely of the lands of the Recognisor: it seemeth to be good enough: for peraduenture the words, Of the goods onely, or lands onely, shall be taken to be void, seeing that the very acknowledgment of the summe of *xx.li.* (befoze a Iudge enabled to take it) both maketh it a debt, and implieth the ordinary meane of law to come vnto it.

So, if this Recognisance be taken, To keepe the Peace against one speciall partie onely, *W. Marr.* thinketh it good: but advise well of it, for the words in the Commission of the peace now be, to take suretie, *Erga nos & populum nostrum.*

W. Marry

Many other wayes there be, after which the Justice of Peace may walke in taking of this kind of Recognisance: which, howsoever they may fall out sufficient to binde the party unto the king, yet peradventure they shall not excuse our Justice of the Peace from checke & blame: and therefore, for the better eschewing of all error in himselfe, and bad dealing against the party, I wish him to go *Regia via*, following the received forme, which I take to be thus.

Memorandum, quod quarto die Iulij, Anno Regni domini nostri Iacobi, Dei gratia, &c. The forme of a Recognisance for the peace.
P. R. de E. in comitatu predicto Ycoman in propria persona sua venit coram me I. Leuison milite, uno Iusticiarioru dicti Dom. regis ad pacem in dicto comitatu conservandam assignatorum, & assumpsit pro seipso sub pena viginti libr. Et H. I. de L. in comitatu predicto Ycoman, Et I. F. de M. in eodem Comitatu Husbandman, tunc & ibidem in proprijs personis suis similiter venerunt, & manuceperunt pro predicto R. P. (videlicet) quilibet eorum separatim sub pena 100. solidi quod idem R. P. personaliter comparebit coram Iusticiarijs dicti Dom. regis ad pacem ad proximam generalem Sessionem pacis in comitatu predicto, ad faciendum & recipiendum quod ei per Curiam tunc & ibidem iniungetur: Et quod ipse interim pacem dicti Domini regis custodiet erga ipsum Dominum Regem, & cunctum populum suum, & precipue versus M. N. de Ightham predictum Ycoman. Et quod damnum vel malum aliquod corporale

porale aut gravamen prefato M. N. (aut alicui de populo dicti Domini Regis quod in lacionem aut perturbationem pacis ipsius Domini Regis cedere valeat) quoniam modo non faciet, nec fieri procurabit. Quam quidem summam xx. li. predicti R. P. & quilibet manncaptorum predictorum predictas separales summas 100. solidi recognoverunt se debere dicto Domin. regi de terris & tenementis, bonis & catalis suis quorumlibet & cuiuslibet eorum, ad opus dicti Domin. Reg. heredū & successorum suorum fieri & lenari, ad quorumcunq; manus devenerint si cōtigerit ipsum R. P. premissa vel eorum aliquod in aliquo infringere, & inde legitimo modo convinci. In cuius rei testimonium, ego predictus I. L. sigillum meum apposui. Dat. & c.

Or thus, a little different in forme.

Memorandum, quod 4. die & c. A. B. de Ightham & c. Et C. D. de eadem, Yeoman, venerunt corā me I. F. & c. & mannceperunt pro I. S. nuper de L. & c. quod ipse personaliter comparabit corā me prefato I. F. vel socijs meis Iusticiarijs pac. domin. reg. ad proximam generalem Sessionem & c. Et quod ipsi. interim gerat pacē erga cunctū populū domini regis, & precipuē erga R. B. & c. videlicet quilibet manncaptorum predicti sub pœna xx. li. Et predictus I. S. assumpsit pro seipso sub pœna xl. libr. Quam quidem summam xl. li. predicti I. S. & quilibet manncaptorum predicti dictam summam xx. li. recognoverunt & c.

And

And this may be well done also, by a single Recognisance in Latine, with a Condition added or endorced in English, for the keeping of the peace, and for the day and place of the appearance at the Quarter Sessions.

The Surety (or Recognisance) of the Peace, what shall be thus commanded & accomplished, order drawn: done with the eth me to disclose, how the Justice of the peace Recognisance is to demean himselfe with it.

If the Surety were taken, by vertue of a *Supplicavit*, then must the Justice of the Peace (be of a Supplicavit) ing in this case but a Minister) make returne of the Writ and Certificate of his doing, into the Court from whence the *Supplicavit* did proceed: for helpe wherin, I will let him downe that, which I haue sene put in practise vpon a Writ of that kind.

First let him note vpon the back of the *Supplicavit*, thus:

Excensio istius brevis patet in quadam schedula eidem breui annexa.

Then may the Schedule be thus:

EGō Thomas Fludde, miles unus custodem pacis Domini Regis in comitatu Kancia, certifico in Cancellariam dicti Domini Regis, me virtute istius brevis, (mibi per A.B. in eodem breui nominatum, primò deliberati) personaliter coram me (tali die & loco) venire fecisse T. R. in dicto breui nominatum, ac eundem T. ad sufficientem securitatē,

&

& mancaptores pacis inueniendum secundum formam dicti breuis, videlicet (as the writt shall appoint, which is of diuers formes, as I told you before) compulisse. In cuius rei testimonium huius presentis Certificationis meae sigillum meum apposui: Datum apud D. pradietam in comitatu prad' 25. die Februarij, anno regni dicti Dom. nostri lat. Dei gratia &c.

The returne of a Certiorari And if a *Certiorari* bee directed out of the Chancerie to the Iustice of the Peace, for removing this Recognisance, because it was not sent by together with the Certificate, (as there was no necessitie that it should) then that writt also may be thus answered.

Upon the backe of the writt thus:

V*irtute istius breuis ego Perciuallus Hart, vnu custodū pac' dom. Reg. in com. Kanc. senore securitatis pac' (vnde infra fit mentio) dicti dom. reg. in Cancellar' suam sub sigillo meo distinclē & aperte mitto, prout patet in schedula huius breui. consueta.*

The which Scedule may be thus:

Memorandum quod 20. die Iulij, (reciting the whole Recognisance to the end thereof.)

Then, In cuius rei testimonium, ego pradietus P. H. sigillum meum apposui, Dat. &c.

If the *Supplicans* be against diuers, & y party will release his prayer of y peace against one of the, then y release ought to be certified for him and the writt must be serued for the rest: or else

non est inuentus, may be certified for him, and the Writ may be serued for the rest.

And this forme may serue also, where a *Certiorari* is brought to a Justice of the Peace, to remoue a Recognisance of the Peace that was taken by him *Ex Officio*, without any such Writ of *Supplicauit*: as you may reade in the Register fol. 90.

But if the Recognisance be not thus remoued from the Justice of the Peace, then may he keepe it till the *Certiorari* come to him for it.

The certifying of the Recognisance & release to the Sessions.

On the other side, if the Recognisance were taken by vertus of his Office, then (whether it were by his owne discretion, or at the suite and desire of another) he must send, or bring it in at the next Sessions, to the *Custos Rotulorum*: so that y^e Recognisor may there be called, & if he make default, then the same default to be recozded, as is appointed by the said statute 3. H. 7. ca. 1.

And although the party that prayed y^e peace doe not then appeare at those Sessions, yet is not the default of the Recognisor discharged thereby, 39. H. 6. 26. Bro. Suretie 10. and the Justices may then of discretion binde him ouer: which also they ordinarily do in some places, for two or three Sessions together, by order amongst themselves.

And here againe some difficulties do arise, that may make y^e Justice of peace sometimes doubtfull, how to hold, certifie, or send in y^e Recognisance. For sundry meanes there are, by which this

this Recognisance of the Peace may (befoze any sozt thereof made) be after a sozt discharged and therfoze let vs consider of them apart, and withall giue some aduise, what shall be best to doe therein.

Release of the
peace by a Ju-
stice of peace.

The Iustice of peace, that of his owne motion compelleth one to giue suretie of the Peace untill a certaine day, may by like discretion befoze that day release it, Firzh. fol. 10. And if it should fortune to be made to keepe the peace generally, without any day limitted, the would it bee construed that it was to continue during the life of the partie bound, and then could no man release it, by Firzh. & 21. E. 4. 40.

If (at the suit of A.) the Recognisance should be taken, To keepe the peace against A. onely, and none other: then may A. release it, either befoze the same Iustice, or any other that will certifie the Release, which certificate (being of Record) will discharge it: but to release it by his deed, is nothing worth, Mar.

And if so it be *Versus cunctū populum*, & *precipue versus A.* yet may A. after that sozt release it, as the Law is now practised in our time, cleane against the opinion of the Books 21. Ed. 4. 40. For, albeit that it seems popular, so that all others should haue equall interest with A. in it, yet was it taken specially (say they) for his safety, as the word *precipue* doth argue plaine. And W. Brooke saith truly, that it was so to be vsed at that time also, Peace 17.

But

But, since the Recognisance is made to the king, and not to the partie (though for his security) and seeing also that by such release, hee that ought to remain bounden shall be at libertie & may do harm, whilest (intending to beat B.) hee may collude with A. both to pray and pardon the Recognisance for the peace: I could for my part like better, to maintaine that old, then to imitate this new opinion.

And now, whether the Recognisance bee at the suit of A. or by the mere motion of the Iustice in the behalfe of A. the King cannot release or pardon it, before that it bee forfeited: both for y^e mischief that may come to A. thereby (Finch opinion 11. H. 7. 12.) and for that the Recognisance being taken according to the common forme as is before set downe, it is not properly a debt to the King, untill it be forfeited, as appeareth 11. H. 4. 43. & 1. H. 7. 10. But being once forfeited, then he (and none other) may pardon the forfeiture: for then it is become proper debt unto him.

Now in these cases, the Recognisance may not be cancelled: least peradventure the peace was broken (& consequently the Recognisance, forfeited) before the time of the Release made Finch. fol. 10.

And therefore, it shall be best, in such cases to send to the Sessions, the Recognisance and the Release together and that may be done in a few lines under the Recognisance it selfe.

¶

First,

First, for the release of the Justice, thus: *Ego prefatus Tho. Walsingham Miles, qui supra nominatum A.B. ad praedictam securitatem pacis conveniendam ex mea discretione compuli, eandem securitatem pacis (quantum in me est) ex mea discretione 1. die Aug. &c. remisi & relaxavi: In cuius rei testimonium, huius presentis relaxationis meae sigillum meum apposui. Dat. &c.*

And for the release of the Partie before the same Justice that took it, thus

Release by the partie. *Memorandum, quod primo Augusti, &c. prefatus C.D. venit coram me Samuele Leonarde, & gratis remisi & relaxavi (quantum in se est) praedictam securitatem pacis per ipsum coram me, versus supra nominatum A. B. petita. In cuius rei testimonium, Ego prefatus Samu. Leonarde, &c. Dat. &c.*

But if the release be made (as some think may) before another Justice which hath not the Recognisance, then this later forme must be framed accordingly.

Certifying of the Recognisance, and Superseas

Furthermore if a man be bound before a Justice of the peace, to keepe the peace against all the Kings people, and to appeare at the next Quarter Sessions: and doe afterward procure a Superseas, out of the Chancerie, testifying that he hath found suretie there against all the Kings people whatsoever: this will discharge his appearance at the Sessions: because the

granting of this Superfedeas is the act of the King, which is the fountaine of Justice, and controuleth all other deriued authorities. Fitz. fol. 9.

But if that Superfedeas should testifie, that he hath found Suretie in the Chauncerie, only untill a certaine day (which day is after those Sessions) then M. Fitz. thinketh, that his appearance at the Sessions shall not be discharged by the Superfedeas. In both these cases also, I would advise the Justice of the Peace, to send in as well the Recognisance as the Superfedeas if it come to his hands: so; peradventure the Recognisance was broken befoze the Superfedeas purchased: or if it were not, yet he shall be excused, and the Recognisor neuer a whit the more endangered thereby.

Lastly, the death of the King dischargeth the Recognisance of the peace, 1. H. 7. 2. Cur. So with the death of the Recognisor: and so also with the death of him, at whose suit it was taken, if so be that it were made to keep the peace against him alone.

Certifying of the Recognisance, though it be discharged by death.

But although the Painperners or Sureties be, yet the Recognisance liueth: so; if the peace be broken after their deaths, their executors shall be charged with it, 21. Ed. 4. 40. Neither (in the former cases) is the Recognisance discharged by such death, if it were forfeited before.

And therefore, here againe my counsell is,

to send in the Recognisance to the *Custos Rotulorum*: for otherwise, how shall the Iustice of Peace be assured, that he doth not defraud the King of a forfeiture, that was growne vnto him.

Causes of for-
feiture, so that
the party shall
be compelled
to give new
Sureties.

Thus haue I both bound the parties to the peace, & conueied the Recognisance to the Iustice to the *Custos Rotulorum*, ready to be called vpon at the Quarter Sessions: So that I might forthwith proceed to treat of the good abearing: But, because I haue told you (out of M. Mar. & 1. Edw. 4. 40.) that if the Recognisance of the peace be forfeited, and that forfeiture be leuied, so that the Recognisance is utterly determined, yet (of Discretion) the partie is to be compelled to find new Suretie, or else to be sent to the prison: because it appeareth evidently, that hee hath broken the Peace: I take it now fit, to runne swiftly ouer some few things that may enforme a Iustice of the peace concerning such forfeitures: to the end, that hee may thereupon compell the offender accordingly.

The Condition of this Recognisance (of what good forme soeuer you make it) standeth vpon two points: the one, for appearance at a time: & other, for keeping the peace in & means while. Of the first of these I haue said somewhat already in this Chapter: concerning the second point, this is generall, That whatsoever Act is a breach of the Peace, the doing thereof doth

also beget a forfeiture of the Recognisance that is made for keeping of the Peace. And what acts shall amount to a breach of the Peace, I will hereafter shew in the next Chapter of this booke, where I shall (to another end) haue more place for it. In the meane space, take thus much here.

If a man be bound to keep the Peace against A. and doe afterward threaten A. to his face, that he will beate him, he hath forfeited his Recognisance. And an action of Trespas lieth at the common law, against him that shall threaten one to beate him: as appeareth in diuers Booke cases, 33. H. 6. 18. 37. H. 6. 20. &c. & shall suppose it to be *Contra pacem*. But otherwise it is, if A. be not present at that threatening, by good opinion, 18. E. 4. 28. yet, if (in the absence of A.) hee doth threaten that he will beate him, and then do afterward lie in wait to beat him: he hath in that case also broken his Recognisance. 32. E. 4. 35. *Cur.*

Like forfeiture is it, if hee that is bound, doe but commaund or procure another to breake the peace vpon any man, or to do any other vnlawfull act against the peace, if that it bee done indeed. 7. H. 4. 34. & Brooke Tit. Peace 20. *temper.* H. 8.

And now for closing vp of this part (concerning the Preuention of the breach of the peace) it remaineth, that I entreat of the Suretie of the good Abearing: and where it lieth.

with that of the peace, as being provided for preservation of the peace, as that other is: for in the Commission of the peace, they are both conveyed under this one tract of speech (*ad securitatem de pace, vel de bono gestu suo, erga nos & populum nostrum inuentendum*) against such as doe threaten hurt to mens bodies, or fire to their houses: which things are now commonly prevented by surety of the Peace only.

And (1. H. 7. 2.) the Surety of the good abearing is set forth to rest in this point chiefly, That a man demean himselfe well, in his port, and company, doing nothing that may be cause of the breach of the peace, or of putting the people in feare, or trouble: and that it doth not consist in the obseruation of things that concern not the Peace: And that it should differ from Surety of the Peace in this, That where the peace is not broken without an affray, or battery, or such like, this Surety *de bono gestu*, may be broken by the number of a mans company, or by his or their weapons or harnesse.

Herewithall also doe certain Precedents of the Kings bench agree, which in Surety of the good Abearing (taken at the suit of some one person) do mingle the words, *A modo se bene geret erga dominum regem, & cunctum populum suum & precipue erga T. B.* with those other words that are commonly put in the Recognisance for the Peace, as in the new Booke of Entries, fol. 416. any man may plainly see.

But

But all this notwithstanding, me thinketh that a man may reasonably affirme, that the surety of god abearing, should not be restrained to so narrow bounds.

For first, the Statute (34. E. 3. cap. 1.) enableth the Wardens of the Peace, to take of all them that be not of good fame (where they shall be found) sufficient surety & mainprise of their good Abearing towards the King & his people. So that, if a man be defamed, hee may by vertue hereof bee bound to his good behaviour, at the discretion of the Wardens and Justices of the Peace. And I once received a speciall Writ out of the Chancery, directed *Custodibus pacis ac vicecomiti : & eorum milibet*, and grounded upon the same statute, for the binding of a man with Sureties, *quod ipse boni gestas & fame de cetera eris, & quod nihil in contrarium statuti praed' quouis modo attemptabis &c.* wherein I proceeded as a Minister onely. But the doubt resteth in this, to understand concerning what matters this defamation must be: and that (as I thinke) may be partly gathered out of the said statute also. For, after it hath first given power to the Wardens of the peace, to arrest and chastise offenders (S. against the Peace, Riottors, & Barretors) then it willet them to enquire of such as hauing bin robbers beyond the sea, were come ouer hither, and would not labour as they were wont: and lastly, it authorized them, to take surtie of the good behaviour of such as be defamed

namely (as I thinke) for any of those former offences: for so it standeth well together, that they shall both punish such as have already so offended, and shall also provide, that others shall not likewise offend. And even so do they of the Chancery understand it, as by their speciall *Superfedeas*, which I afterward received from them upon that Writ (whereof I spake even now) (I did well perceiue.

Moreover, it seemeth to me, that all these statutes, first (1. Mar. Parliam. 1. cap. 3.) which gaue this Surety of good Abearing against such as disturbed a Preacher: then (5. El. c. 21) that provideth the same against the takers of fish in ponds, or of Wares in Parkes: After that (23. Eliz. c. 1.) which granteth it against such as wilfully absent themselves from the Church by the space of 12. months: Likewise (39. Eliz. cap. 4.) which tieth to the good behaviour all such as disturbe the execution of that statute, either for the punishment of Rogues, or for the relieve or setting on worke of the poore: And lastly, (3. Jac. 13.) which willeth that the unlawfull Hunters and stealers of Wares and Conies: shall finde sureties for their good Abearing: It seemeth (I say) that all these statutes have this one meaning, that a partie (so bound) may afterward forfeit his Recognizance, if hee chloone offend against the said Statutes.

Besides this, you may see (admitted by the opinion

opinio of the Court 13.H.7.10.) that if a man in the night season, haunt a house that is suspected for Bawdrie, or vse suspicious company, then may the Cōstable arrest him to find surety of his good Abearing. For, Bawderie is not merely a spiritual offence, but mixed, and sounding somewhat against the Peace of the Land, 27. Henr. 8. 14. Fitzherb. & 1. Henr. 7. 6.

And therefore, it shall not bee amisse at this day (in my slender opinion) to graunt Surety of the good Abearing against him that is suspected to haue begotten a Bastard child, to the end that he may be forth comming whē it shall be bozne: for otherwise, there will be no Putative father found, when the two Iustices of the Peace, shall after the birth, and by vertue of the Statute (18. Eliz. ca. 3. come to take order for his punishment.

And if this medicine might lawfully be applied to Swinakers, Tailors, Weauers, and other light persons, that (without Testimonial or other good Warrant) do flit out of one Shire into another: not only that euill of Bastardie, but many other mischieses, might bee either prevented, or punished thereby.

But, for some aduise (by the way) in conceiuing rightly this Suspicion, marke what M. Bracton writeth: *Oritur suspitio ex fama, & ex fama & suspitione oritur gravis præsumptio: Fama verò suspitionē inducens, oriri debet apud bonos & graves*

graves idque non semel sed sapius. Oritur etiam suspitio, ex facto precedente, cui standum est donec probetur contrarium: nam qui semel est malus semper prælumitur esse malus, in eodem genere mali.

Now, the further that this bond of the good Abearing doth extend, the more regard there ought to be taken in the awarding of it: and therefore although the Justices of the Peace haue power to grant it, either by their owne discretion, or vpon the complaint of others, euen as they may that of the Peace: yet I wish rather that they do not command it, but only vpon sufficient cause seene to themselves, or vpon the suit and complaint of others, and the same verie honest and credible persons.

And here, sozasmuch as one Justice of the peace (alone, and out of the Sessions) may (both by the first Clause of the Commission, and also by the opinion of M. Firzh. & 9.E. 4 3.) graunt this suretie of the good Abearing (although the common maner be, that two such Justices do ioyne in that doing, whereof also M. Firz. hath verie good liking) I will not sticke to set forth the common formes, as well of the Precept, as of the Recognisance for the same: wherein if I shall vse the names of two Justices, you must take that to be done according to the common fashion, and not of any necessitie in Law.

For, as I would more gladly vse the assistance of a fellow Justice in this behalfe, if I may conueniently haue it: so (if that may not be
gotten

gotten) I would not greatly feare (when good
cause shall require) to vndertake the thing my
selfe alone.

The Precept may haue this course.

Brian Annesley, and Edmund Stile, two of the
Iustices of the Peace of our Soueraign Lord
the Kings Maiestie, in the Countrey of Kent, to
the Sherife of the said countrey, to the Constables
of the Hundred of Blackheath, and to the Bor-
sholders of the town of Eltham, in the said hun-
dred, and to euery of them, greeting: Forasmuch
as A. B. of E. aforesaid, is not of good fame, nor of
honest conuersation (but an euill doer, riotter,
barretor, and perturber of the Peace of our said
Soueraigne Lord) as we are giuen to vnderstand
by the complaint of sundry credible persons:
Therefore, on the behalfe of our said Soueraign
Lord, we commaund you and euery of you, that
you cause the said A. B. to come before vs, or
some others of our fellow Iustices, to find suffi-
cient surety and mainprise as well for his good
Abearing towards our said soueraign Lord, and
all his liege people, vntill the next quarter Sessi-
on of the Peace, to be holden in the said countrey,
as also for his appearance then there. And if he
shall refuse so to doe, &c. As in the Precept of
the peace, with a verie little (or no) change.

The Precept
of the good
Abearing.

Any one of
these is suffi-
cient cause.

The

The vsuall Recognifance hath this foyme.

The Recognifance for the Good Abearing.

Memorandum, quod quinto die mēsis Iul. anno regni Iac. &c. venit coram nobis Henrico Palmer milite, et Samuele Leonard armigero, vt antea in Recognitione Pacis, vsque ad hoc: Quod idem R. G. personaliter comparebit coram Iusticiarijs dicti domi reg ad pacem, &c. ad proximam generalem Sessionem &c. Et quod ipse interim se bene geret erga domi reg. & cunctum populu suum, & precipue erga I. B. de C. &c. Et quod ipse non inferet, nec inferri procurabit, per se nec per alios, danum aliquod seu grauamen prefat' I. B. si alicui de populo ipsius domini reg. de corporibus suis, per insidias, insultus, seu aliquo alio modo, quod in lesionem seu perturbationem pacis dicti Domini reg. cadere valeat quomodo, videlicet vterque predict' H. C. & I. S. sub pena 100. lib. Et predictus R. G. sub pena 200. lib. quas quidem sepeales summas 100. lib. vterque predictorum H. C. & I. S. (vt predictur) per se, ac predictus R. G. dictas 200. lib. recognouerunt se debere dicto dom. reg. de terris & tenementis bonis & catallis suis, & quoru libet ac cuiuslibet eorum ad opus ipsius dicti Dom. reg. fieri & leuari, si contingat prefatum R. G. in aliquo premissorum deficere, et inde legitimo modo conuinci, &c.

By a simple Recognifance with this Condition endorced or vnderwritten.

Con-

Conditio Recognitionis pradiſta talis eſt, Quod ſi pradiſtus P. J. impoſterum ſe bene geret, & pacem Dom. Regis conſervabit, erga diſtictum Dominum regem, & cunctum populum ſuum, & nullum dampnum corporale, &c. Ex tunc recognitio pradiſta pro nulli teneatur, alioquin in ſuo robore permaneat.

I have known it doubted, whether the ſurety of the good Abearing (command upon complaint) may bee releaſed by any ſpeciall perſon, or no: becauſe it ſeemeth moze popular then the Surety of the Peace. But if it may, then may the ſozme of ſuch a Releaſe bee eaſily made, by that which is befoze concerning the Peace, uſing the wordes *Securitatem deſe bene gerendo*, in ſteed of the wordes *Securitatem pacis*.

And the like imitation may bee uſed alſo, for a *Superdeas* of the good Abearing, if at the leaſt that bee grantable by the Juſtices of the Peace.

I might here without breach of order, proſecute the Preſervation of the Peace, by the preventing of ſuch as bee riotouſly aſſembled, and by handling the Statute of Northampton, which ſeemeth (by plaine ſpeech) to be provided for prevention of the breach of the Peace alſo: but becauſe the firſt ſhal have his proper place, and the latter is commonly put in uſe at this day after the Peace broken by ſociable entrie,

I will spare to speake of any of them, till they come to treat of those matters by themselves.

What any one Iustice of Peace out of the Sessions may doe concerning the staying or punishing of the Breach of the Peace without a multitude, against the person.

CAP. III.

Breach of the
peace without
a multitude.

The prevention of the breach of the Peace hath appeared, as well in the Suretie of the Peace, as of the good Abearing: and therefore mine own order requireth, that I now declare what one Iustice of the Peace may doe (out of the Sessions) for punishment of such as do breake the Peace.

For our Law is no lesse carefull this way to conserue the Peace, both by staying them that doe any way aduenture towards the breach thereof, and by punishing them that doe actually enter into the verie violation of the same, then it was prouident to see it preserved before it came to any neere shew of disturbance, or greater euill.

But because the breach of the Peace (as the Law is taken at this day) whether it be by word, or other art (and that also whether it bee
to

to the person, or his goods, or lands) may bee as well committed by one onely, or by two upon a side (both which we hold to be done without a multitude though two in precise speech doe make a number) as by three or more in one company (which the Law properly calleth a multitude) it shall be good to intreat by it selfe, first of that breach of the peace which may be committed without a multitude, and then to prosecute the other, if before all we giue the Justice of Peace to vnderstand, that by what way soener he may preuent (or punish) the breach of the Peace in one person, the same meanes he may also vse against any multitude offending therein.

The breach of the Peace that may be practised against the person, climeth to the destruction of the person by sundry steps and degrees: as by Threats, Affray (or Assault) violent and malicious striking, beating, wounding, maiming, and killing. The matter of menacing and threatning, is already handled in the last chapter.

The words Affray and Assault, bee indifferently vled of most men, and that also in some of our Booke cases: but yet (in my opinion) there wanteth not a iust difference betwixen them.

For Affray is deuised of the French Effraier which signifieth to terrifie, or bring feare, which the Law vnderstandeth to be a common wrong,

Affray and Assault.

to long, and therefore it is inquirable and punishable in the tute of the Sherife, and in a Lette, 4. H. 6. 10. and Ed. 3. 4. 5. Otherwise it is of an assault, as it seemeth by those verbe bookes.

Yet may an Affray bee without word or blow ginen: as if a man shall shew himselfe furnished with armour or weaps, which is not vsually woyme and boyme, it will strike a feare vnto others that bee not armed as hee is: and therefore both the Statute of Northampton (2. E. 3. c. 3.) made against the wearing of Armour and weapon) & the writ thereupon grounded, do speake of it by the words, *effray del pais*, and *in terrorem populi*.

But an Assault, as it is fetched from another fountain, namely frō the Latin *Assulius*, which denoteth a leaping (or flying) vpon a man: so can it not be perfozmed, without the offer of some hurtfull blow, or at the least, of some fearefull speech. And therefore to rebuke a Collector with foule words, so that hee departed (for feare) without doing his office, was taken for an Assault, 27. li. Ass. pl. 11. And to strike at a man although hee were neither hurt (or hit with y blow) was adinged an Assault, 22. lib. Ass. pl. 60. For this Assault doth not alwaies necessarily imply a hitting: and therefore, in Trespas of Assault and Batterie, a man may bee found guilty of the Assault, and yet bee excused of the Batterie. 40. E. 3. 40. & 45. E. 3. 24.

Menacing

Menacing, then Assaults, iniurious and violent handlings, and misintreatings of the person, batteries, malicious strikings, &c. be breaches of the peace, and do draw after them the forfeiture of a Recognisance, knowledges for the keeping of the Peace.

And therefore (for example) if a man doe imprison another without Warrant: or do thrust him into a water (or river) whereby hee is in danger of drowning, or doe ravish a woman against her will: or doe commit Manslaughter, or Burglary, or Robbery, upon the person of another: or do any Treason against the person of the King (who as hee is the head of his people, so are they also wounded in his heart) hee hath broken the peace: Marrow.

But concerning the menacing, assault, or battery of the peace, this is to bee noted by this way, that it is not in all cases a violation and breach of the peace: for some are allowed to haue privately a naturall, and some a ciuill power (or authoritie) ouer other: so that they may (in reasonable manner onely) correct and chastise them for their offences, without imputation of any such breach. After one sort, the parent is suffered (with moderation) to threaten and chastise the child within age. By reason of the other sort of power, the master is not punishable (if not outrageously) he chastise his seruant, the Scholemaster his schollers, or a gaoler (or his seruant by his commaundement) his vnruly

prisoners, or the Lord his Villaine. But these things neuertheless, must bee done in convenient place, and therefore not in the presence of the King, as it is thought, 27. lib. Ass. pl. 40.

And this power of the Master and Scholmaster, ouer the Seruant and Scholer is affirmed by 9. Marrow, and confirmed by some opinion in the booke, 21. E. 4. 6. & 53. Wherunto I may also adde the mind of those that make the statute (33. H. 8. ca. 12.) concerning malicious striking in the Kings house: for they therein specially exempt y^e Master that striketh his Seruant with his hand, fist, small staffe, or sticke in the way of correction for his offence.

Euery man also may take his kinsman that is mad, and may put him in a house, and bind and beate him with rods, for the reclaiming of him, without the breach of the Peace, 22. lib. Ass. pl. 56.

A Constable, or other Officer, or any other being of their company, that shall be diligent to strike any person, for the better erecting of their Office or Charge (as in many cases they may lawfully doe) breaketh not the Peace, nor shall be in perill to forfeit any Recognisance for the peace by reason of any such Assault or Battery: as may be well inferred vpon these cases 17. E. 4. 5. 2. E. 4. 6. & 8. 4. H. 7. 1. & 14. H. 7. For such acts be iustifiable. And see for this purpose also 9. Stamf. fol. 13. 14. 15.

Well

Besides this, if a man be enforced to repulse violence (done vnto his owne person, or to the person of his wife, father, mother, child, master, or seruant, or to his goods being in his possession) either by threatening, or striking againe, his so doing is also iustificable, as may be seene in Marrow, & 33. H. 6. 18. 19. H. 6. 31. 9. E. 4. 48. & 35. H. 6. 6. But a Farmer, or Tenant, cannot iustifie such an Act in defence of his Landlord: nor a Commoner in defence of the Mayor (or the Bailifes) of a citie, or towne corporate, where he dwelleth.

If one man also kil, or hurt another at fence play, or at the Wilt, Tournament, or Barriers (in presence of the King, and by his commandement, or licence) it is no breach of the peace: 11. H. 7. 23. Fineux: But M Br. saith (Corone 118.) that the Judges were of another opinion, in the time of R. H. the 8. because such a licence, or commaundement, is against the law.

More allowably therefore visiteth Marrow, that it breaketh not the peace, to kill a man, in a Wager of Battaille for trial of a cause, according to the ancient law of our country.

Thus far of those Breaches, that may bring Breaches at daunger to a Recognisance of the Peace: for the peace that some others there be, which are (in a degree) against the Peace, so that an Enditement *Contra pacem*, may bee found vpon them, and yet no forfeiture of a Recognisance, shall ensue of them

make no
breach of bond
for the peace.

them. For the Act, that shall breede such a forfeiture, must bee done vnto the person, Marrow.

Wherefore, if a man (so bound) do take a mans goods wrongfully, (so that it bee not from his person) or doe ravish or take another of his Ward: or doe a Trespasse in another mans Cozne, or graffe: or doe Disseise another mans lands: or doe enter into lands, whers he ought to bring his action: it will breede no forfeiture of this bond.

Let vs now therefore come to the pacifying and punishing of the breach of the Peace, by on the person, by one Justice of the Peace out of the Sessions.

A Justice of the Peace, is undoubtedly (for this purpose) endowd with no lesse power, then every priuate man, or any Constable hath, as it is plaine by 14. H. 7. 8. & 9. Ed. 4. 3. And therefore, it may not be thought *Heterogenium*, or besides my purpose, if I shall shewe what both a priuate man and Constable may doe in this case, yet rather I chouse to vtter this matter vnder their names, to the ende that I may with that one laboꝝ bewray the duties, both of them and of the Justice of the Peace himselfe in this behalfe.

The dutie of a
Stander by at
an Affray.

The law loketh, that every priuate person, who it shall happen to be present at an Affray, Assault, or Battery, (for now I will with other men confound those names) should doe his
part

part to depart them that fight together: and it
 both (to that ende) enable him also with some
 portion of authoritie.

For, if two bee fighting, euery stander by, **To part them**
 may lawfully, and shall doe well to put them in
 sunder: and if he take hurt therby, he shall haue
 his remedie by Action against him that did the
 hurt.

But yet hee (being but a private man) may
 do no hurt, if they resist him: for they also shall
 then haue Action for it against him: wherein
 his case differeth (as yon shal see none) from the
 case of an Officer.

And if an Affray be in the high street, and one
 cometh towards it with harneis or weapons **To stay them.**
 to toyne with the one or other partie, euery
 man that seeth it, may stay him till the affray
 be ended.

Any man also may stay the Affrayers, untill
 the fozme of their heat bee calmed: and then
 may hee deliuer them ouer to the Constable to
 imprison them, till they finde Suretie for the
 Peace: but he himselfe may not commit them
 to prison, vnlesse the one of them be in perill of
 death by some hurt: for then may any man ca-
 ry the ether to the gaole till it be known, whe-
 ther he so hurt, will liue or die, as appeareth by
 the statute, 3. H. 7. ca. 1.

And if (in that case) hee which did the harme,
 doe flie into another mans house, yet may any
 man (that followeth him vpon Way and Cris-
 made)

made) breake open the house, and enter, and take him. 7. E. 3. Fitz. Bar. 291.

Now, that it is not only lawfull, but commanded also, that the stander by doe shew his best endeavour in these cases, it appeareth Corone Fitzh. 395.) that one which stood by, looked on, whilest a man was slaine, was imprisoned till he made fine, because hee did not bestir him to attach the murderer.

But, as the keeping of the peace is more specially recommended to the charge of Justices of peace Constables, petie-Constables, Bencholders, Tythingmen, and such like Officers so bee they also (to that end) armed with a larger measure of authoritie,

The officers
durie in an
Affray.

And therefore, if a Constable, or such other Officer, doe see a man endeavouring to make an affray, hee maie command him to avoide, upon paine of imprisonment & if the Affray be great or dangerous, hee may make proclamation, and may command the parties to prison for a small time, till their heat bee passed over, and then hee must deliver them without any fine taking.

But if two doe vs only hote wordes one against the other, the officer may lay no hands upon them, vnlesse they do also draw weapon, or doe otherwise offer to strike: If they once fight together, then may the Officer depart them, and if the hap to be hurt in that doing, hee shall haue an Action of Trespasse for it.

but if any of them bee hurt by him in the resistance, no Action lieth for them: For the Officer ought to doe his best to depart them: insomuch as if it bee presented at the Sessions of the peace, that he was present at an Affray, and did not vse his endeavour to put them in (under that fought together, hee shall bee deeply fined for it: Otherwise it is, if he were not present, but were only told of the Affray: Mar. If any of the parties bee in danger, by reason of a hurt receiued in the Affray, then ought the Officer to arrest and carrie the other to the gaole, untill hee shall finde surety to appeare at the gaole deliuey Fitzh. 72. 38. E. 3. 6. & 22. lib. Ass. pl. 56.

And if two men bee fighting in a house (the doores shut) then may the Officer breake open the doores to see the Peace kept, though neither of them haue taken hurt.

And yet when the Constable hath taken an Affraier, he may not imprison him in his house but in the stocks: and that, not aboue such a reasonable time as he may prouide to conuey him to the gaole till he find suretie for the Peace, 3. H. 4. 9. 22. E. 4. 35.

And herein he differeth from a gaoler, or the rife (who hath the charge of the gaole) for hee may make a gaole of his house: & so cannot a constable or Justice of the peace do. For by stat. (5. H. 4. c. 10.) the Justice of the peace must send his prisoners to the common gaole: & you may read (Brit. f. 72.) the

the Sherife (in his turne) vsed to enquire of those which made Wysons of their priuate houses.

If one doe make an Affray vpon a Iustice of the Peace, Constable, or such other Officer, he may not only defend himselfe, but may also apprehend the offender and send him to the gaole, till he will find suretie of the Peace, 5. H. 7. 4. And the Iustice, or Constable may (if need be) command assistance of the kings people, for the pacifying of an Affray, 3. H. 7. 10.

If he that maketh an Affray, doe flie into a house when the Iustice of peace (or Constable) cometh to arrest him, they may also in fresh suit) break open the doores and take him, Marr. or if he fly thence, they may make fresh suit and arrest him, though it be in another Countie, by the opiniõ of some men, 13. E. 4. 9. And it should seme (by the reason of that Booke) that in this case also, they may break open the doores to apprehend him: because the king hath an interest in the matter, and then a mans house shall be no refuge for him, as it should bee in Debt or trespassse where the interest is but only to some particular subiect.

Now, if the Constable doe arrest one, that hath hurt another, and doe voluntarily suffer him to escape, and then he that was hurt dyeth thereof within the yeare and day, the Constable shall make a great fine, and that to the value of his goods, in the opinion of some, 11. H.

4.12.& Stamford 35. But yet the offence shall not haue such relation to the time of the stroke, as to make the escape to become felony thereby: *Commentar Plowd. 263.*

What any one Iustice of Peace out of the Sessions may doe concerning the Breach of the Peace, without, or with a multitude, by Forcible Entry into Lands or Tenements, &c.

C A P. IIII.

It seemeth, that (before the trouble some reigne of King Richard the second) the Common Law permitted any person (which had good right (or title) to enter into any land) to winne the possession thereof by force, if otherwise he could not haue obtained it.

For, a man may see (in Britton fo. 115.) that a certain respite of time was giuen to the Disseisee (according to his distance, and absence) in which it was lawfull for him to gather force, armes, and his friends, and to throw the Disseisor out of his wrongfull possession.

And at this day, if (in a common action, or enditement of Trespasse for entring into land) the Defendant will make title thereunto, the matter

matter of the force alleadged against him will rest altogether upon the validitie of his Title, as appeareth, 7. H. 6. 13. and 40.

But, after the rebellious tumult, and insurrection of the villaines, and other the base commons which happened the fourth yeare of the Raigne of R. 2. the Parliament (5. R. 2. ca. 7.) thinking it necessarie to provide against all such occasions of further sedition, bppeare, & breach of peace, did ordaine among other things, Thus: From henceforth none make any entrie into any lands and tenements, but in case where entrie is given by the Lawe, and in such case not with strong hand, nor with multitude of people, but only in peaceable and easie manner: vpon paine (if hee bee duely convicted thereof) of imprisonment, and to bee ransomed at the Kings will.

But because that statute provided no speedy remedy in this point: nor extended to holding with force: nor left any speciall power therein to the Justice of peace in the country: whereas the experience of that vnquiet time required a more readie hand to the suppressing of such disorders: and Justices of the peace were by 13. Rich. 2. Stat. 1. cap. 7.) then newly chosen in all the Countie of England, of the most sufficient Knights, Esquires, and men of Law of the same, and sworne to put in execution all the ordinances touching their offices. Therefore 15. R. 2. cap. 2. it was further enacted. That when such forcible

forcible entrie should be made into lands or tenements, or into benefices, or offices of the Church, and complaint thereof come to any Iustice of the Peace, he should take sufficient power of the Countie, & go to the place where such force was made: and if hee found any that held such place forcibly after such entrie made, the same should be taken and put in the next gaole there to abide, conuicted by the record of the same Iustice, til they had made fine and ransome to the King: And that aswell the Sherife, as all others of the Countie shoulde attend vpon the said Iustices to goe and strengthen the same Iustices, to arrest such offenders, vpon pain of imprisonment, and to make fine to the King.

But yet againe, for asmuch as this last Statute did not extend to those that entred peaceably, & then held with force: no; yet reached to the offenders, if they were remoued before the coming of the Iustices: no; made restitution of the possession so forcibly gotten: no; gaue any paine against the Sherife that did not obey the precepts of the Iustices in this behalfe: it was not only obtained by a third Act (made 8.H.6. cap.9.) That the said former statute should be holden and duely executed. But it was adioyned also thereunto, If any from henceforth make such forcible entrie into lands, tenements, or other possessions: or them holde forcibly, after complainte thereof made within the same Countie to any of the Iustices of the Peace

Peace there by the parties grieved, the Iustices, (or Iustice) so warned, shall in convenient time, cause the last said statute duly to be executed at the costs of the said partie so grieved.

And whether the persons (making such Entries) be present or avoyded before the Iustices comming: the same Iustices (or Iustice) in some good Towne next to the said tenements, or in some other convenient place, at his discretion, shal haue power to enquire by the people of the same County, as well of them which made such Forcible entries into lands, or tenements, as of them which held the same with force: And if it be found before any of them, that any doth contrary to this statute, then the said Iustices (or Iustice) shall doe the said lands or tenements to be resealed, and shall put the partie (so put out) in full possession of the same. And when the said Iustices (or Iustice) make such inquiry, they shal direct their Precepts to the Sherife, commaunding him on the Kings behalfe, to cause to come before them & every of them, sufficient and indifferent persons, dwelling next about the same lands or tenements, wherof every man shall have lands or tenements of the cleare yearly value of fortie shillings at the least: and the Sherife shal returne twentie shillings in Issues vpon every one of them at the first Precept returnable, and at the second forty shillings, and at the third five pounds, and at every day after the double. And every Sherife of counry, and Bailife of franchise, that

that shall not duely make execution of the said Precepts, shall forfeit to the King twenty pounds for euery default, and shall moreover make fine and ransome to the King. And as well the Iustices (or Iustice) aforesaid, as the Iustices of Assises, may heare and determine such defaults of Sherifes or Bailifes, as well by Bill at the suite of the partie grieved, for himselfe, as for the King only by way of Enditement: and vpon such due attainder, he which sueth for himselfe & for the King, shall haue the one moytie of the saide 20. pounds, together with his costes and expences: and such Proces shall be against such so indited, or sued, as lyeth against any person indited, or sued, by writ of Trespasse with force and armes against the Peace. And the Maiors, Iustices, or Iustice of the Peace, Sherifes, and Bailifes, that are in Cities, Towns or Boroughs (hauing franchise) shall haue like power there in the articles aforesaid, as the Iustices of Peace, and Sherifes in the Countie haue.

But they which keepe by force their possessions in any lands or tenements, whereof they or their auncestors, or they whose estate they haue therein haue continued their possession in the same by three yeares or more, shall not be endamaged by force of this statute.

This last Statute I haue exemplified the more at large, so that it deliuereth a full direction in this businesse. Besides the which, seeing that I haue met with some other notes, that

that doe tend to the explanation of sundrie points thereof, and seems not vnnecessary to be considered, I will not let to bestow them here also.

This Statute (8. H. 6.) enableth any one Justice of the Peace, to giue remedie in this hurt of Forcible entrie and holding: And is made aswell against such as enter with Force & hold them peaceable; and against those that enter in peaceable sort, & then maintaine their possession forcibly: as also against as many, as doe both Enter and Hold in forcible maner. Fitz. Na. Br. 148. & 3. E. 4. 19.

And therefore it is expedient for the Justice of the Peace to know, first, what is a Forcible entrie, and what is a Forcible holding, within the meaning of these Statutes: and then, how he shall demean and carry himselfe, in the execution of his office against those that shall offend herein.

Two sorts of Force.

Even as the Civilians doe handle two sorts of Force: of which they call the one *vis*, and *vis simplicem, privatam, sine quotidianam*; and the other *vis armatam, atrocem, & publicam*, because the first is void of any fearefull outrage, and the latter seemeth to kindle & coales of sedition it selfe: so likewise, our law taketh knowledge of two manners of Force: whereof the one is rather intellectuall then actual, and may therefore be termed, a Force in the consideration of law, which accounteth all that to be *vis*, which

which is contrary to *ius*. But the other is apparent by the act it selfe, which alwaies carrieth some fearefull shew, and matter of terror (or trouble) with it.

Howbeit in this we differ from them, that whereas our law confoundeth the words *vi & armis*, when it meaneth but onely the former force, the Civill Law doth severe them, applying *vi* to the former onely, and *armis* to this latter.

And therefore, if I do but haueke, or walke, (for my pastime or recreation) ouer another mans ground, he may haue his action of Trespasse against me, *Quare vi & armis &c.* For though I meant no harme to him, or his, yet (in iudgement of Law) I might not (in such case) passe vpon his ground without licence. But this is not that force, that needeth help which is provided by these statutes: for 34. H. 6. 26. a writ vpon that Stat. 5. R. 2. c. 7. was disallowed, because it is obtained *vi & armis*, only.

Againe, if a man do enter vpon the scēhold of another, and doe there fish the waters with an angle, or cut down the grasse with a sickle, or fell the trees with an axe, or take away any of his goods in his absence: this is accounted a disseisin with force and armes, Lib. 2. 12. pl. 26. 11. H. 4. 16. All. Fit. 301. & 21. E. 3. 34. And yet I doubt also, whether any of these be of the selfe forcible entries, of that nature which these statutes doe take in hand to punish.

For

For, albeit they haue in them moze actual force then those other trespasses wherof I spake last befoze: yet, whilest the doer of them neither executeth apparant violence against any person, nor is furnished with weapon, nor armed with company, that may offer any dreadfull disturbance, I see not how these Statutes (which haue so their only marke, strong hand, and multitude of people) can hurt, or so much as hit him.

So that if a man were indited vpon this statute (8.H.6.) for that he disseised another, *vi & armis* (viz. *gladijs, &c.*) without saying *manu sua* &c. or *cū multitudine* &c. the vill (as I think) would bee sufficient: vnlesse it were holpen by concluding afterward, *contra formā statuti predicti*, or by some other matter that implied so much. Wherefoze,

Pauo maiora canamus.

**Forcible
Entry.**

If one, or moe persons, shal come weaponed (especially with weapons not vsually bozne, as bowes, bills, gunnes, or such like) to a house or land, & shall violently enter therein, this is a forcible entrie within the meaning of these Statutes: much moze, if he or they shall there offer violence, or feare of harme, to the person of any that is in possession thereof: and most of all, if hee or they shall forcibly and furiously expell, and dzyne another out of such his possession.

In the which consideration, he that entreteth
in

in a peaceable shew (as the dore being either open, or but closed with a latch only) & yet when he is come in, vseth violence, and thrusteth out such as he findeth in the place, hee (I say) shall not be excused: because his entrie is not consummate by the onely putting of his foots ouer the threshold, but by the action and demeanour that hee offereth when hee is come into the house.

And albeit that of three (or foure) which come in one companie, to make such a forcible entrie, onely one of them doth vse force and violence, yet are all the rest also guilty of this force with him, (Fitz. Imprif. 12.) Neither is it denied (16. H. 7. 11.) to be a forcible entrie, when the master entreth, being attended with a greater number of seruants then vsually doe wait vpon him. For whether a man doe actually vse force in his entrie, or do come so readily appointed and arrayed for it, that other men may reasonably be affraid that he mindeth to make his way by force rather then he will faile of his desired purpose, it seemeth to weigh to a violent, (or forcible) entrie.

And I thinke there be no great doubt, but that one person alone, may commit a forcible entrie, if so be that hee doe perforce it with offensive weapon, or do vse turbulent behaviour to the affray of another.

But what peapons be offensive, in these and the like cases, a man shall the better discern, if

he will take with him these seto lines drawn out of M. Bracons booke, fol. 162. *Est etiam in armata, non solum si quis venerit cum telis, verum etiam omnes illos dicimus armatos, qui habent quicquid nocere possunt: Telorum autem appellatione, omnia in quibus singuli homines nocere possunt accipiuntur. Sed si quis venerit sine armis & in ipsi concertatione ligna sumpserit, fustes, aut lapides, ut dicatur armata: Si quis autem venerit tam armis, armis tamen ad deiciendum non usus fuerit, & deiecerit, vis armata dicetur esse facta: Sufficit enim terror armorum, ut videatur armis deiecit.*

Furthermoze, if a man that hath a rent issuing out of the land, shall distraine for the same with force, this will counteruaile an Entrie with force: and much moze if he shall by such forcible distresse leuie a rent, that is not due to him, but to another man, 20. H. 6. 11. & 11. b. Ass. 43. pl. 6. For an action vpon the statute of Forcible entrie lieth for a rent, 22. H. 6. 23.

But now if diuers persons shall make a forcible entrie to the vse of another man (which is not then present with them, but afterwards cometh thereunto) this shall not charge him to the force, howsoeuer he may become a disseisor by it: for (as it is said, 2. H. 7. 16. a forcible entrie cannot be adiudged against a man, without an actuall entrie be also made by him.

Thus far of Forcible entrie which may somewhat lead a man towards the knowledge of deteyning (or holding) with force also; but yet

Forcible
holding

because the matter will best appeare by particularitie, I will ensue that also.

If a Justice of the Peace comes to the house (that is supposed to be holden with Force) and there findeth but one person, which obstinately keepeth the dore shut against him, and will not suffer him to enter: this is a forcible holding, Marrow. So is it, if when the Justice entreth the house, he shall find persons harnessed, or in other warlike sort appointed, or having such furniture lying ready in the house to be used by them, Marrow. But if a man shall Peaceably enter into a house, wherein he findeth armour, or weapon for the war, then (as I think) the only suffering of it to remain there (without the use thereof) will not charge him as a forcible holder.

Againe, if a man that is entred into a house, will bestow men with force and armes, in some other house or place (not far distant) to the intent that they shall be ready to assault such as shall make any attempt of entrie upon him: this is a defeyning with force, Marrow. And (for the same reason) it seemeth to be a forcible holding, if a disseisor of a house, or land, shall forerhall the way of the disseise (with force and armes) so that he dare not enter, or approach, for feare of death. Seeing that in either case, the lawfull meane of coming to his possession, is quite taken from him: Like as if a man

haue a rent or common in land, and he is so forcibly resisted by the tenant of the land, that he dare neither distraine for the one, nor vse the benefit of the other: this is a holding with force punishable by this Statute, Marr. & Lib. Ass. 26. pl. 49. Besides this, some haue thought that if he which hath gained a possession, shall threaten to kill him (that hath right) if he come to enter, this shall amount to a forcible holding.

But, all that is here said touching this point must be taken to be said of a forcible deteyning of the possession it selfe, and not of the Person. For (as Marr. writeth) if I shall take a man (being out of his house) and then put into the house a seruant of mine owne in peaceable manner, and hold away the other by imprisonment of his person in some other place: this is no forcible deteyning within the purpose of these lawes, but a false imprisoning punishable by action at large.

The duties of
the Justice.

We come now to the office of the Justice of Peace, in these forcible entries, and holdings: and that standeth first, either in recording the force by his owne view, or in seeking to understand therof, by the oathes and enquiry of other men.

Complaint is
not necessarie.

Touching the recording of the force, although both this Statute 8. Henr. 6. and that other 15. R. 2. haue mention, That the Justice shall (vpon complaint made vnto him by the parties grieved)

griued) goe to the place &c. yet that doth not enforce any necessitie of such a complaint : for it is holden (7.E.4.18.) that a Justice may receive a forcible entrie and holding, or may enquire of it, and make restitution also (upon any information or knowledge thereof whatsoever) though no complaint at all be brought unto him by any partie griued thereby. And as the Statute saith, that this ought to be done at the costs of the partie griued. So Marrow thinketh ; that unlesse those costs be tendered before hand, the Justice needeth not to stirre about it. Costs;

But, howsoever he (being then a practiser in the law) might thinke it good to stand upon his fee: yet I advise our Justice of the peace to goe forward, as having more regard of his credit, oath and dutie.

Neither ought hee to stagger, or stay at all, about the right or wrong of his Title that entreateth or holdeth forcibly. For considering that the said Statute (5.R.2.) doth without exception prohibite all entrie with force, howsoever the entrie be otherwise lawfull: and seeing also, that the other Statute (8.H.6.) permitteth no forcible holding, but onely where thre yeres possession have gone before : And weighing moreover, that both they & this other (15.R.2.) doe together labour to repressse force and violence, and have also made the Justice of the Peace their minister therein : I see no cause

[The right is not commonly disputable.]

why the Iustice of Peace (who perhaps shall want sufficient learning in the Law to discern of the right, or title, and yet may bee both a person to remove the force, and able enough to restore the possession) should be tied to the discussion of the right or title, of either of the parties.

And this I gather upon the opinion of all the Court (9.H.6.19.) which was the verie next yeere after the making of the last of these Statutes: where it is said, that the action upon the Statute 8.H.6. is for the right only, and must allway say, *Illicite ingressus est, or ubi ingressus non datur per legem.* but the Endowment is for the force in respect of the King, to whom the party shall make fine, although his right be never so good, and sound.

And thereupon, the booke 12.H.6.18. admitte this case: that if A. shall disseise B. of his land, and B. doe enter againe, and put out A. with force: A. shall be restored to his possession by the helpe of the Iustices of the Peace, although his first entrie were utterly wrongful: and (notwithstanding the same restitution is made) yet B. may well haue an Assise against A, or may enter peaceably upon him againe.

And therefore the Iustice of the Peace may boldly proceed in this businesse, taking with him sufficient power of the Countrey by his discretion (and therein the Sherife also, if need doe require) as well for the arresting of such as

he shall finde to enter, or hold, forcibly against these Lawes, as also for the remouing of the force which they bring, and for the conueying of them to the next Gaole, as persons thereof connicted by his owne eye, testimonie, and record.

The forme of which record, may stand vpon two parts: the one to remain amongst the Records of the Peace, or to bee certified into the Kings Bench: and the other, to bee sent to the Gaoler, and to lye with him for his better warrant and discharge.

Recording of
the force.

The Record of the Force.

Memorandum quod octauo die mensis Ianuarij, Anno regni Domini nostri Iacobi, &c. Querit mihi Samson Lennard, vni Iusticiariorum dicti Dom. Regis ad pacem in dicto comitatu conseruandam assignatorum, quid A. B. de Wrotham in dicto comit. Yeoman, quod C. D. de Wrotham predicta, & nonnulli alij pacis dicti dom. regis perturbatores ignoti, in domum mansionalem ipsius A. B. in Wrotham predict. manu forti ingressi sunt & ipsum A. B. inde disseisuerunt, ac eandem manu forti & armata potentia adhuc tenent: ac proinde petit a me sibi in hac parte remedium apponi. Qua quidem querimonia & petitione audita, ego prefatus S. L. immediate an dictam domum mansionalem personaliter accessi, ac in eadem domo ad tunc inveni

fatum C.D. & quosdam E.F. & G.H. & c. domum
illam vi & armis, manu forti, & armata potentia,
viz. arcubus & sagittis, gladijs, pugionib' galeis, &
Loricis tenentes contra formam Statuti in Parlia-
mento Dom. Rich. nuper regis Anglie secundi, anno
regni sui decimo quinto tento, promissi: ac contra for-
mam diuersorum aliorum Statutorum. Ac propi-
terea ego prefat. S.L. predictas C.D.E.F. & G.H. &
tunc & ibidem arrestari, proximeque gaola dicti
domini Regini apud Maidstone in dicto Comitatu
duci feci, ut de dicta manu forti tentione per visum
& recordum meum convictos, ibidem moraturos
quousque fines dicto Domino Reg. pro transgressio-
nibus suis predictis fecerint. Dat. apud Wrotham
pred. sub sigillo meo die & anno supradictis.

Per me prefatum Sa. Leon.

And the forme of the writtimus to the
Gaoler, may be thus.

Cerge Chowne, one of the Iustices of the
Peace of our Soueraigne Lord the Kings
Majestie within his said County of Kent, to the
keeper of his Majesties Gaole at Maidstone in
the said County, and to his depury and deputies
there, and to euery of them greeting: Whereas
vpon complaint made vnto me this present day
by A. B. of Wrotham, in the said County Yeo-
man, I went immediatly to the dwelling house of
the said A. B. in Wrotham aforesaid, and there
found

found C.D.E.F. & G.H. of Wrotham aforesaid Labourours, forcibly, and with strong hand and armed power, holding the said house, against the peace of our said soueraign Lord, and against the forme of the Statute of Parliament thereof made in the fifteenth yeere of the raigne of our late King *Richard* the second. Therefore I send you (by the bringers hereof) the bodies of the said C. D. E. F. and G. H. convicted of the said forcible holding, by mine owne view, testimonie and record: commanding you in his Maiesties name, to receiue them into your said Gaole, and there safely to keepe them, vntill such time as they shall make their fines to our said Soueraign Lord, for the said trespasses, and shall be thence deliuered by the order of the Law of the Land. Hereof faile you not, vpon the perill that may follow thereof. Ye ouen at Wrotham aforesaid, vnder my Scale, the day and yeere abouesaid.

By me the said G. C.

But now, soasmuch as this Law hath provided restitution of the partie that shall be put out of possession by such forcible entrie: and so, that no restitution can be made by the Justice of Peace, but onely vpon the finding of the same putting out by the oathes of the Enquirors: let vs also consider what is the duty of the Justice in these two points, of Enquirie and Restitution.

Enquirie of
the force and
restitution of
possession.

Con.

Concerning the Enquirie, Marrow noteth these few things : First, that it is no cause to impeach the Enquirie, though the Justice doe not goe to see the place where the force is : and yet the words of the statute are, Whether the persons be present or avoided before the Iustices comming : Secondly, that albeit the letter of the statute is, That each Iuror of this enquirie ought to have lands or tenements of the cleere yerely value of xl.s. yet if any of the presentors haue not so much land, the presentment is good for the King: but then (saith he) the parties shall haue no restitution by it, if that matter bee shewed at the time of the Restitution to be made. Nowbeit, I my selfe doe not well perceiue, how the restitution (that the Justice of the Peace ought to make vpon such a presentment) can bee stayed, save only either by removing of the record into the Bench of the King, or by alleaging three yeres quiet possession: Thirdly, that if the Sheriffe shall returne smaller issues vpon the Enquirors then the statute doth appoint, yet the parties shall neuer take advantage of it.

Restitution 3.

Furthermoze, though in some cases for the punishing of the offenders (by imprisonment, and fine) it be not altogether requisite to be found that the party grieved is actually throtten out of his possession by them, insomuch as the only holding with force wil suffice for that purpose ; yet (in other cases) for the hauing of the
resti

restitution by the Statute, this putting out must
of necessity (saith M. Marrow) be found by the
enquiry.

And therefore, if the truth of the case be, that
after the death of A, another man abateth (or
entred) into his house forcibly, before the heire
of A. hath gotten any actuall possession indeed:
the heire of A. shall haue no restitution (as Mar.
saith) because he had but a possession in law on-
ly. So, if it be presented, that you were seised,
vntill that A. entred vpon you with force: you
shall neuer haue restitution by it, because it
may be that he entred forcibly, and yet that you
were not put out of possession: by him, Marrow.
But if it be found that you were seised vntill
that A. put you out with force, or vntill that A.
put you out, and that he holdeth it with force,
then you shall bee restored to your possession,
Marrow.

And this putting out is alwaies to be vnder-
stood, either of a house (or land) only, and not of a
Rent, Common, aduowson, or of any such other
like thing, wherein an actuall entry cannot bee
made, Marrow.

So; conuer, it is not enough that the putting
out be found, vntill the Endowment doe also
conteyne *adhuc extra tenet*, that he yet holdeth
the other out of his possession: without the
which it may bee thought that the other hath
gotten in againe, and then restitution shall bee
nobleste.

againe

Againe, this restitution ought to be made to him that was put out, and to none other: So that if the father be put out by force, and dyed after the time of enquiry, and before restitution, his heire shall not haue restitution vpon it, Mar.

And in some cases (saith Mar.) there may be a mutuall (or crosse) restitution awarded: as, if it be found by one enquiry, that I my selfe was seised vntill that A. disseised me with force: and by an other enquiry, that the same A. was seised, vntill by me disseised with force: now either of vs may pray restitution, and shall haue it against the other: because it is by seuerall inquisitions, whereof the Iustices (supposed to be seuerall) cannot take mutuall vnderstanding: and then shall he be in the worse case, that hath the first restitution, for the other shall haue him removed, by his restitution that cometh after. So (by his opinion) if it be found, that I my selfe was seised, vntill disseised by A. with force: whom also B. disseised with like force: Here if A. getteth restitution against B. then may I also haue my restitution against A. But if I first obtaine my restitution, then hath A. lost the advantage of his: because it appeareth by the selfe same inquisition, who had the first possession. And if it happen two ioin tenants of land to be put out with force, and the one of them onely wil sue for restitution, he ought to haue it made vnto him, Marrow.

But

But whether a Lessee for yeeres of land, that is expelled by force, shall be holden by those Statutes, it hath been a good question for, on the one side it is said, That albeit the preamble of the Statute (15. Rich. 2.) hath the word (possessions) which may extend to a lease for yeeres, because that of such a lease a man is said to be possessed, even as he that hath an inheritance, or freehold, is said to be seised: and although also the purview of the Statute (8. H. 6.) useth the same word (possessions) also, yet that (say they) is but onely where the force is to be removed, and where the offenders are to be punished by imprisonment and fine: all which, they grant may be done in the behalfe of a Lessee for yeeres: but seeing that speciall branch of the Statute (8. H. 6.) which doth directly provide the restitution, omitteth that word possessions, therefore (say they) none shall have restitution but such onely as be put out of lands or tenements: and those words must be understood of them only that have inheritance or freehold at the least. So that, if such a Lessee (or any Coppingholder) will be ayded by way of restitution, the Enquirie must (by this opinion) find the Lessor (or the Lord) to be forcibly put out and expelled: that by his restitution the Lessee or Coppingholder may be restored also.

Restitution to
a Lessee for
yeeres.

But one the other side, Marrow maketh no doubt, but that such a Lessee for yeeres may have

have restitution by the hand of a Justice of the Peace. And (to accompanie him herein) who can denie, that the same incommenience which (these Lawes doe labour to remove) followeth not equally in either case: Besides that, the verie words of that speciall branch are these, If it be found that any doth contrarie to this Statute, then the said Justice shall cause the said lands and tenements to be resealed, and shall put the party (so put out) in full possession of the same. Upon which words it followeth: First, that if he which expulseth by force a Lessee for yeeres, doe contrary to this statute (as it is granted y^e he doth) then that Lessee ought to be restored to his possession by this branch: and secondly, if they will have the life of the law to rest only in the bare letters, and sillables thereof, (a thing which wise men doe contemne, and call *verborum aucupium*) then the words, be that he shall put in full possession, which word possession agreeth better with a lease for yeeres (as themselves say) then with a freehold, or inheritance, for which the word *seisin* is altogether vsed. But the common opinion swayeth to the other side: therefore leaving this to the iudgement of the better learned, I will returne to the Office of our Justice.

After the entry, or detaining with force shall be thus presented, the Justice of the peace may either by himself, or by discretion of his precept to the Sheriffe (vnder the Teste of himselfe alone

alone) restore the partie grieved to his possession.

And if upon a Writ of restitution awarded the Sheriffe shall refozne, that hee is so resisted that he cannot bring the partie into his possession, he shall be amerced for such his refozn (saith Marrow) because he may take the power of his countie to assist him therein.

And it is certaine, that if the Presentment be sent into the Kings Bench, the party may have his restitution awarded out of the Court by the equitie of this Statute : as it is holden 7. Edw. 4. 18. & 4. Henr. 7. 18. But if it happen that Justice of the Peace (before whom the Enquirie was taken) to die before restitution bee delivred by him, it may bee doubted whether his fellowe Justices (having the presentment brought unto them) may at their Quarter Sessions award the Restitution : because the Statute seemeth to refer it to them only before whom the Enquirie was made. It is (I know) the opinion of M. Marrow that they may : grounding himselfe (as I thinke) upon the same Equity, by which the Justices of the Kings Bench are enabled to do it : Howbeit it may appeare (Collect. Dier 187.) that the Law is otherwise taken, both therein, and also in the granting of a *Superfedeas* to stay the Restitution : because no Justices can doe the one or other, but they only that were present at the Session when the Enditment was found
except

except those of the Kings Bench, who (for the supposed presence of the King) doe carrie a supposed authority in these cases of the Crowne.

But Marrow agreeth, that neither the Justices of the Kings Bench, nor any other (besides him that made Enquiry) can personally restore the partie, but by way of Precept onely.

Traverse.

Againe, whether (after such a presentment) the party charged may be admitted to his Traverse before the same Justice of the peace: and if not, then where, or before whom, this Traverse is to be made or tendered, I will not take upon me to resolve.

This seemeth (upon consideration of both the Statutes) to be plaine, that such persons as the Justice of Peace doth finde, and see, continuing the force, at his coming to the place, them he may immediatly commit to the gaole, as convict of that offence, notwithstanding, any their gainsaying whatsoever. But upon the enquiry, I see not that the Justice of Peace hath any other power committed unto him (by 8.H.6.) then to make the restitution onely, which also it seemeth that he may make, notwithstanding this offer of Traverse. And if he will not so doe, the safest way (in mine opinion) is, to deliver or certifie the presentment into the Kings Bench: and so to refer the further proceeding therein to their further power and authority.

againe

Againe, touching the assessment of the fines ^{Assessment} or ransomes, vpon the offenders, so committed of the fine. by the Record of the Justice of Peace, & by his warrant conueyed to the Gaole, some men doe think, that the same Justice hath sufficient authority to put them to their fines, and vpon pledges (sound for the payment thereof) to deliuer them out of prison againe, when he by this discretion shall thinke it good. For (as they say) he is the onely appointed Judge ouer this offence, and onely hath the custody of that Record, and knoweth best both how to moderate the imprisonment, and to rate the fines, according to the quantitie of their Trespasse and offence: And, as he is bound by his oath and Oath (in their opinion) to excrete all fines, and amerciaments growing to the King, by his enquiry: So ought hee also to excrete, and send this into the Eschequer: that from thence the Sheriffe may bee commanded to leuie it to his Majesties behoofe.

But (granting this to be true) yet (to auoyd all perill of dashing against the rocke of doubt) I thinke it the better course, to referre this matter also, as I aduised in the case that went last before.

Now must I conclude, as both the Statute (8 ^{Continuance} H. 6.) with this promise: That such as keepe of three yeeres their possession by force, after that they haue the possession, continuance of three yeeres possession, shall not bee endamaged by force of that Statute. And

here the Booke (14. H. 7. 28.) stayeth mee with one other question: For there it is said, that albeit in an Action vpon this Statute, it be a good Barre for the defendand to plede his thre yeres possession, though it were altogether by force: yet (vpon an Auditement) twenty yeres possession by force, shall neither be any plea against the King, nor shall hinder the partie grieved from his restitution out of the Kings Bench. Vpon this authority, some haue conceived this generall opinion that the continuance of thre yeres possessions will in no case protect a man against the King, but onely against the pattie in his priuat action by way of Barre.

Howbeit, if the words of the Prouiso, and the reason of inserting y^e same, be but truly weighed, that opinion will not fall out altogether reasonable, as it hath the shew to be faire, and plausible. For the wordes are, that such a one shall not be endamaged by force of the Statute: and there is no doubt, but that he is deeply endamaged, which is both imprisoned, fined, and put out of his land, that hee hath so long and quietly possessed.

Againe, when this Statute had in generall termes (brought within the penaltie of 15. R. 2.) all such as should detaine any lands or tenements with force after that they had peaceably entred into the same: yet was it thought iust and conuenient, to exempt from that punishment

ment, all such as (having entred in peaceable manner) had also continued their possession three yeares together without any forcible detainer of the same. And therefore it seemeth to me, that such persons bee not onely to take the benefit of that prouiso, in actions vpon the statute to be commenced against them: but also to bee the aduantage of the same against an Enditement for the King, to auoyd the Imprisonment and fine, and to debarre the partie of his Restitution by the hand of a Justice of the Peace.

And hereupon M^r. Marrow writeth, that If the three yeares possession be found by the Enquiry, then the forcible detainers shall haue the aduantage thereof against the King also: which opinion I take to bee very reasonable, not generally vnderstood, but especially, and where (as I said) the detainers did enter peaceably: for so was the opinion of Hales and Portman, Justices, 6. & 7. Ed. 6. Report. Dalison: and so likewise was the iudgement of all the Court, 21. H. 6. 8.

Nevertheless, the case being put (as it is in that Booke, 14. H. 7. 28.) both of a wrongfull and forcible entrie at the first, and then of a forcible detainer also (though sundrie yeares continued) I do easily agree that such a violent holder should bee denyed the protection of this Prouiso, not onely in respect of the King vpon an Enditement, but also in regard of the

party grieved, touching eyther his Action or Restitution.

So that the difference will rest in this (as I thinke) whether that continuall possession of thre yeeres do immediatly follow a peaceable, or Forcible entrie. Continuell I say, because Judge Brooke (7th. Forcible Entry 29.) seemeth to hold, That if that possession by thre yeeres haue not bene continuall, and without interruption, then (if hee reenter) he cannot holde or detaine with force, bee his right, or title neuer so good, and lawfull. See Collect. Dyer. 141. 14.

For the resolution of some part of this question and for remedy of a special inconuenient that grew thereby, the Parliament 31. Elizabeth. cap. 11. (having first witten and allowed of that Prouiso in the Statute, 8. Hen. 6.) layeth downe a Lawe in these wordes following: Whereas now of late, diuers of her Maiesties Subiects, hauing entries made vpon their possessions (hauing had such long and quiet possession) for disturbing of such Entrers, and for keeping of their possession against such Entrers by colour of Enditements of Forcible entry, or Forcible keeping of possession, found against them by meanes of the Oathes of such Entrers, haue bene remooued and put out of their dwelling houses and other possessions, which they haue quietly helde by the space of three years together, or longer time, next before such

Inditements found against them, against the true meaning and intent of the sayd Prowiso or Clause contained in the said Act: For remedy of which inconuenience, and for true declaration and explanation of the Law therein, Bee it ordeined, declared, and enacted by the Authoritie of this present Parliament, that no restitution vpon any Inditement of Forcible entrie, or holding with force bee made to any person or persons, if the person, or persons so indited hath had the occupation, or hath bene in quiet possession, by the space of three yeares together next before the day of such inditement so found, & his, her, or their estate or estates therein not ended nor determined: which the partie shall and may alledge for stay of restitution, & restitution to stay vntill that be tried, if the other will deny or traaverse the same. And if the same allegation be tried against the same person or persons so indited, then the same person or persons so indited to pay such cost and damages to the other partie, as shall be assessed by the Iudges, or Iustices before whome the same shall be tryed: the same costs and damages to be recovered and leuyed, as is vsuall for costes and damages contrained in Iudgments vpon other Action, 31. *Eliz.* cap. 11.

And now, these things thus pursued & passed ouer, I will for the moze complete furniturs of the Justice of Peace in this service (against forbidden force) arme him with a fewe Precedents,

dents, for helpe in his Inquiry, and making a
Restitution.

The Precept to the Sherife, in nature of a
Venire facias.

Georgius Riners, vnus Iusticiariorū Dom. reg.
Ad pacē in comitatu Ranc. conseruandā assig-
natorū, vicecomiti eiusdē Comitatus salutem: Ex
parte dict. dom. reg. tibi mando & precipio quod ve-
nire facias corā me apud Ightham in com. præd. xx.
die Septemb. proximo futuro xxiiij. probos sufficien-
tes, & legales homines de vicineto de Ighthā præd.
quorū quilibet hab. xl. sol. terrarū & tenementorum
vel redditum per annū ad minus ultra repisas, ad
inquirendum super sacramentū suum pro dict. dom.
rege, de quodā ingressu manusforti facto in me suagū
cuiusdā A.B. apud Ightham prædict. contra formā
statuti in Parlamento Domini Henr. super regis Angl.
sexti, anno regni sui octauo tento, editi, vt dicit: Et
videas quod super quēlibet Iuratorum per te in hac
parte impanellandorū xx. sol. de exitibus ad præfatū
diē returns: & hoc nullatenus omittas sub pena xx.
lib. quā noneris te incurf. si in executione præmissorū
tepīdus aut remissus fueris: Et habeas ibi tunc hoc
preceptū. Teste me præfato G. R. x. die Martij ann.
regni Dom. nostri Iacobi dei gratia Anglia, Scotia,
Franc. & Hib. Regis, fidei defensoris, &c.

And vpon default of appearance of these Ju-
rors, an Alias may be awarded, and after that
pluries infinit, till they come: but so, that at the
day

day of the second Writ r.l.s. must be returned, at the third Writ C.s. and at every day after the double, as befoze hath bene touched.

The Enquirie (or Verdict) of the
Jurozs.

Inquisitio pro Dom. Rege capta apud Ightham in Comitatu Kanc. xxix. die Iulij, anno regni Dom. nostri Jacobi, Dei gratia, Anglie, Scotie, Francia, & Hibernia Regis, fidei defensoris, &c. Per Sacramentum, A.B.C.D.E.F. &c. coram Henrico Palmer Milite, uno Iusticiariorum dicti Domini Regis ad pacem in dicto comitatu conservandū, nec non ad diversa felonias, transgressiones, & alia malefacta in eodē comitatu perpetrata audiendum & terminandū assignatorū: Qui dicunt super Sacramentū suum præd, quod C.D. de Ighthā præd yeo-man, diu legitimè & pacificè seiscitus fuit in domineo suo ut de feodo, de & in vno messuagio &c. cum pertinentijs in Ighthā præd, & possessionē ac seiscinā suā prædict. sic continuavit, quousque A.B. de &c. & alij malefactores ignoti primo die Septemb. ultimo elapso, vi & armis, videlicet cum baculis, gladijs arcubus & sagittis, in messuagium præd &c. intraverunt, ac ipsum C.D. inde disseiscinuerunt, & manu forti expulerunt, & eundem C.D. sic disseiscitum & expulsū ab eodem messuagio, &c. a prædict. primo die &c. usque ad diem captionis huius inquisitionis cum huiusmodi fortitudine & potētia armata extrā tēnerunt, & adhuc extrā tēnent in magnam pacis

dict. dom. Regis perturbationem, ac contra formam Statuti in Parlamento domini Henrici nuper Regis Anglie sexti, anno regni sui octavo tento, in tali casu editi & prouisi: ubi nullus eorum, nec aliquis alius cuius statum ipsi aut aliquis eorum habuerunt, aut habuit, aliquid in eodē messuagio, &c. aut in aliqua inde parcella habuerūt, aut habuit, infra tres annos proximos ante ingressum suum predictum, neque alio tempore precedente ad notitiam Iuratorum predictorum.

The Warrant to the Sherife for the making of Restitution, if the Iustice himselte will not make it.

Henricus Palmer Miles, cuius Iusticiariorum &c. assignatorum: Vicecomiti eiusdem Comitatus Salutem: Cum per quandam Inquisitionē patrie coram me captam apud Ightham in Comitatu predicto xxix. die Iulij &c. super sacramentū A.B. C.D.E.F. &c. ac per formā Statuti de ingressibus manu forti factis in tali casu prouisi cōpertum fuit, quod A.B. &c. & alij &c. primo die Septemb. &c. in quoddā messuagium &c. C.D. &c. in Ightham praed' vi & armis ingressi sunt, ac ipsum C.D. inde tunc manu forti disseisinerunt & expulerūt, & praedictū C.D. sic expulsū à praedicto messuagio &c. à praed' primo die Septemb. &c. vsq; ad diem capitionis Inquisitionis praed' manu forti, & cum potentia extra tenuerunt, prout per Inquisitionem praedictam plenius liquet de Recordis: Ideo ex parte dict. Dom.

reg.

*reg. tibi mando & precipio, quod ad hoc debito-
quisitus, una cum posse comitatus tui (si necesse fu-
erit) accedas ac mesuagium & cetera premissa, ac
eadem, cum pertinentiis reseiſiri facias, & prefatum
C.D. ad, & in plenam possessionem suam inde prout
ipſe ante ingressum predictum fuerat seiſitus, reſti-
tui, & mitti facias, iuxta formam dicti Statuti, &
hec nullatenus omittas, periculo incumbente. Teste
me prefato & c.*

I come (at length) to the performance of that
promise which I made concerning the Statute
of Northampton: for that also is of late dayes
frequently put in vze for the punishment of for-
cible entries.

That Law (in effect, and for this purpose) is
thus: No man whatsoever, (except the Kings
Seruant and Ministers, in his presence, or in exe-
cuting his Precepts, or their Offices, and such as
shall assist them, and except it bee vpon Crie
or Proclamation made for armes, to keepe the
Peace, and that in places where such actes doe
happen) bee so hardy to come before the Kings
Iustices, or other his Ministers doing their Offi-
ces with force and armes: nor bring any force in
affray of the country: nor go, nor ride armed by
night, or by day in Faires or Markets, or in pre-
sence of the Iustices or other ministers, nor in a-
ny place elsewhere, vpon paine to forfeit his ar-
mour to the King, and his body to prison at the
Kings pleasure, 2.E. 3.c. 3.

The executi-
on of a writte
vpon the Sta-
tute of North-
ampton.

Upon

Upon this statute, he that is put out, or holden out of his land with force, useth to haue at this day a Writ directed out of the Chauncery either to the Sheriffe onely (as *Sp. Fitzh.* in his *Nat. Bre.* fol. 149. rehearseth it, for I finde it not in the Register or Writs) or else *Custodibus pacis, ac vicecomiti, & eorum cuilibet* (as the common maner is) commanding that Proclamation bee made vpon the Statute: and that if a ny bee afterward found offending against the same, they shall bee committed to prison (there to remaine untill that some other commandement be giuen concerning them) and that their armour and weapon shall bee seized, and the same answered to the vs of the Kings Maiestie.

But for as much as that Iustice of Peace, (to whom this Writ shall bee deliuered) is to make Execution of the same, as a *Spintiff* onely, and is to certifie his doing therein: I thinke good, to lend these fewe helpes towards it.

At his comming to the place, where the force is supposed by this Writ, hee may cause three Oyes for silence to be made, with this, or such an other Proclamation.

THE Kings Maiesties Iustice of his Peace straightly chargeth, and in his Maiesties name commaundeth, all and every person to keepe silence, whilest his Maiesties Writ vpon

on the Statute made at Northampton in the second yere of K. *Edw.* the third, his noble progenitor (delivered to the said Iustice) bee read, and Proclamation be therupon made accordingly.

Then may he reade the Writ, or declare the effect thereof in English.

After that let thre other Oyes be made, and thereupon may this Proclamation follow.

HIs Maiesties said Iustice doth in his Highnesse name, & by vertue of his said Writ, straitly charge and commaund; that no manner of person, of whar estate, degree or condition soever, now being within the house of B. &c. named in the said Writ, shall go armed, nor keepe force of Armour or weapon, nor doe any thing there, or elsewhere, in disturbance of his Maiesties peace, or in offence of the said statute, vpon the paines of loosing his said armour & weapon and of imprisoning his body at his Maiesties pleasure.

God save the King.

This done, the Iustice may enter, and search whether there be any force of armour or weapon woyn or bozne against this Proclamation: or otherwise he may enquire thereof by a Jury, so; so the Writ it selfe doth warrant him to doe: And if any such be found, he ought to imprison the offendours, and to seise and apprise
the

the armour and weapon so found with them. But if (upon the Proclamation made) they doe depart in peaceable manner, then hath he no warrant by the Writ to commit them to prison.

But now let me shew him a forme of Certificat (or returne) of this Writ in the Chancery, and then make an end.

Upon the Writ it selfe these words may be endorced.

Executio istius Brevis patet in quadam Schedula eidem Breui consuta.

And the Schedule may be thus :

EGo Rogerus Tynsden armiger, unus custod' pacis Dom. Reg. in com. Kanc. certifico in Cancellariam dict. dom. reg. quod virtute istius brevis mihi primo deliberati, decimo die Aprilis, anno &c. publice proclamari ex parte dict. Dom. Reg. feci, apud B. cuius in dicto Breui fit mentio, prout in dicto breui precipitur : Et quod quidam A. C. & D. E. de F. in comitatu praed' Laborers, praedictam proclamationem parui pendentes, post proclamationem praed' ibidem sic factam armati inerunt, ac armatam potentiam ibidem duxerunt, scilicet duas galeas, unum arcum, & decem sagittas, duos gladios, & totidem pugiones, in perturbationem pacis dict. Dom. Reg. ac terrorem populi sui, necnon in contemptum Statuti in dicto Breui specificati, manifestum : Ac proinde dict.

dict. A.C. & D.E. una cum armaturis suis prad' arrestant ac sciunt, & eorum corpora ad proximam prisonam dict. Dom. reg. in com. prad' duci feci ibidem moratura donec aliud à dicto Dom. Reg. pro ipsorum deliberatione habuerit in mandatis. Armaturas etiā eorū prad' appretiari feci, per A.B.C.D. & E.F. de B. prad' Yedman, ad hoc iuratos: qui dicunt super sacramentū suū prad' quod prad' duaga- lens valent decē sol. Et quod dict. arcus & 10. sagit. valent 6. sol. Et quod gladij pradicti valent xx. solidi. Et quod dict. paciones valent 5. sol. & sic quod armatura prad' valet in toto 41. solidis de quibus paratus sum respondere secundum tenorē dicti breuii. In cuius rei testimonium, huius presentis certificationis mee sigillum meum apposui. Dat. apud B. prad. die & an. supradictis.

By this you haue seene, what one Justice of the Peace ought to doe in the execution of this statute as a minister: and by the same you may also see, what he may do therein of himselfe, *Ex Officio*, as a Judge, & without any writ brought vnto him.

For not onely by the plaine wordes of the statute of Northampton, the Wardens of the Peace haue power (within their Wardes) and are commaunded to execute this Act vpon a paine: But also by good Implication in the Commission it selfe, euery Warden of þe peace hath the Statute of Northampton committed to his charge. So that both in the matter and manner, the doing is all one, sauing that (if hee doe

doe it as a Judge) hee needeth not to make any Proclamation (the statute being a prohibition in it selfe) nor yet to send any Certificate into the Chancery, but only to make his owne Record of that which hee shall doe in this behalfe, and thereout to send some eſtreit into the Exchequer, that the King may be answered of the Armour, as of the value thereof.

And heere (perhaps) the redemption of the imprisonment, may be at the discretion of the same Justice, even as in the former statutes of 15.R. 2. & 8.H. 6. it seemeth to be: but therein mine advise shalbe the same y^e I gaue them before: Adioyning this, That in the execution of this statute of Northampton, the Justice of the Peace hath to doe with remouing of the force only, and may not meddle with any restitution of the possession.

Of other breaches of the peace, with a multitude: As by Riot, Rour, or other vnlawful Assembly, &c. and what any one Iustice of the Peace may doe therein out of the Sessions.

CAP. V.



Our Parliament sasing wel, that the Assembly of many for breach of the peace, doth more danger & hurt, both generally to y^e Commonwealth wherein it happeneth, and particularly to him against

against whom it is bent, then the force of any one or two turbulent persons can bring, haue no lesse carefully endeoured to suppress the one, then wisely foresene to prevent & punish the other. And therefore not only the Commission giueth power to enquire of Conuenticles against the peace, but sundry statutes also haue deuised many meanes and paines to meet with and to punish the same: whereas befoze they were punishable only, as other trespass, though sometimes by a greater, and sometimes by a smaller fine, as the case it selfe required consideration,

But vnlawful Conuenticles be not all of one sort, for sometimes those are called Conuenticles, wherein many do impart with others their meaning to kill a man, or to take one anothers part in all things, or such like.

Champerries also, Mainienances, Conspiracies, Confederacies, and giuing of Liueries, (other then to Peniall seruants and Officers) be contained vnder the word Conuenticles, saith Marr.

And it appeareth (27. lib. Ass. pl. 44.) to be one of the Articles enquirable in the Kings Bench, whether any person doe take others to their Assuagement and protection, & doe receiue of them rents (or other giftes) yearely in the name of Chiuage (or rather Chiefage) because they saue Chiuage to take vpon them to bee their Chieffes, heads, or leaders.

But

But so far as all these contentions may be without any apparant shew of Assembly against \hat{y} Peace (though otherwise they be finable offences under the name & calling of Conuenticles, as Mar. thinketh) I will leane them, and resort to those other that the Commission saith to bee done, *vi armata*, and that doe bring manifest terror vnto the subiect.

Of these some consist of a number of people, gathered together disorderly for the cause of some one or of a few persons, and doe not breed any generall or present danger to the Estate or Government, and yet be against law, and bee called Riots, Routs, and Assemblies against the law: against which the statutes 13. H. 4. cap. 7. 2. H. 5. ca. 8. &c. 19. H. 7. cap. 13. were specially provided: and before that the penalty of the statute of Northampton, 2. E. 3. c. 3. was laid vpon them by 2. R. 2. ca. 6.

But others there be, that doe shew of a more generall disobedience, and be (in regard of the number, or quarrell) a very seed of Rebellion, if not the Weed it selfe: and are therefore also sometimes called Rumors, great ridings, routs, and Riots against the peace 5. R. 2. c. 6. 7. R. 2. ca. 2. & 6. sometimes Assemblies of people in great number, in manner of Iurisdiction. 2. H. 5. ca. 9. and sometimes Rebellions, Insurrections, and rebellious assemblies, 15. R. 2. cap. 2. 8. H. 6. ca. 14. and 1. Mar. Parl. 1. cap. 12. Of all which (so farre forth as the Iustices of peace haue interest

terest in them) I will treat, but yet senerally, and so, as either one, or moe of these Iustices haue to doe with the, and that out of the Sessions.

They of the first kind be, as I haue said, commonly called, Vnlawfull assemblies, Riots, and Riots: concerning the proper difference betwene euerie of which, all men doe not altogether agree. And therefore (relecting all diuersity of opinions) I will follow that which I take to be most probable, and at this day most commonly received. Wherein notwithstanding I submit my pen to the experience of the Star Chamber, as to the best guide and direction, that in this case the Iustice of Peace can haue to follow.

An vnlawfull assembly, is of the companie of **Assembly**, three or moe persons, disorderly comming together, forcibly to commit an vnlawfull act, as to beat a man, or to enter vpon his possession, or such like.

A Rout (saith Marrow) is such a companie so **Rout**, assembled, for their owne common quarell, as where the Inhabitants of a Towneship come forcibly together to throwe downe a hedge, ditch, or pale in claiming their Common: or to beat a man that hath don vnto them some publicke offence, or displeasure. But the Statute (18.E.3. Sc. 1.) speaketh of Riots y^e are brought into the presence of the Iustices: and the Statute (2.R.2. cap. 6.) that threateth of riding in great

great Riots to make entrie into lands, to beat men, or to carrie away their wines, &c. do seeme to vnderstand the word Riout in a more ample and large meaning. And therefore I will describe it thus: A Riout is a disordered assembly of three or more persons moving forward to commit by force an vnlawfull act. For it is a Riout, whether they put their purpose in full execution or no, if so be that they doe goe, ride, or meane forward after their first meeting, Br. Riout 4. & 5. And thereby it seemeth to mee to bee the verie same, which the Germanes doe yet call Roet, that is a troupe, or band of men that doe ride or goe forward.

Riout

A Riout is thought to be, where three or more persons be disorderly assembled to commit with force any such vnlawfull act, and do accordingly execute the same. This I think to be deriued from the French word Riouter, signifying to scolde (or brawle) because such manner of acts bee commonly accompanied with words of brawle.

**Things that
be common to
Riots,
Riouts, &c.**

And thus (vpon the whole reckoning) an vnlawfull assembly is the first degree or beginning: a Riout, the next step or proceeding: and a Riout the full effect and consummation of such a disordered and forbidden action.

But howsoever that stands, two speciall things there are, that be common and must concur, both in the vnlawfull assembly, Riout, and Riout, the one, that three persons (at the least) be gathered

gathered together; so; so it is commonly holden at this day, as I haue learned : the other, that their being together doe breed some apparant disturbance of the Peace, either by signification of Speech, shew of Armour; turbulent Gesture, or actuall and expresse Violence : so that either the peaceable sort of men be inquieted and feared by the fact, or the lighter sort and buisie bodies be emboldened by the Example.

And in these matters not onely the fact it selfe, but also the manner of doing the same, falleth sometime iustly into consideration : in so much as the lawfulnessse or unlawfulnessse of the thing it selfe that is done or intended, doth not alwaies excuse or accuse the parties to a Riot, Rout, or unlawfull Assembly, but so, that the manner and Circumstance of the thing, must also bee brought into Judgement with it.

And therefore (saith M. Marrow) the manner of the doing of a lawfull thing, may make it unlawfull: As, if many in one companie (riding or going, to the Sessions, Faire, Market, or Church it selfe) will ride or goe armed, to the terror of the people. For although it be not onely lawfull, but meete, and necessarie also to goe to the Church and Sessions, yet, to goe in such shew, it is altogether needlesse, disorderly and against the Law.

Things that
be considera-
ble in Riots,
Routs, &c.

The manner

So, if thre (or mo) shall enter into land with force, where their entrie is otherwise lawfull. And contrariwise, an Assembly to doe a wrong (saith he) may be so handled, that it shall prove none of these offences : as, if I gather many companie together, to carry away a piece of timber (which will not be mooved without a good many) whereto I pretend right, though in Law it be another mans.

And so also to doe an vnlawfull thing : as if many doe meet to play at bowles, tables, & cards, and doe vse no misbehaviour against the peace, they are not punishable in this degree. And yet, if he that carrieth the piece of timber away, will vse deadly words, as to say, that he will carry it in spite of him that hath it, so that he will haue it, though he die for it, or such like: his doing may then become a riot, Marr.

Furthermore, the intention and purpose of those that be assembled, is worthe the weighing. For, to vse harness on Midsummer night in London, or on May day in the Countrey (for sport only) is no such offence, seeing no terror followeth of it: and the words *in terrorum populi* seeme to be materiall in an Indictment of this kind.

So if the Sherife or his Bailife do leuie people to serue the Kings Writ of *Capias* : or if a Constable doe gather assistance of men with weapon to part an Affray, it maketh no Riot, 3. H. 7. 1. & 10.

So if a man (hearing that another will fetch him out of his house and beat him) do assemble companie with so; so, it will be no vniuersall assembly: so; his house is his Hold and Castle. But if hee bee only threatned, that he shall be beaten if he go to the Market, then may he not assemble companie so; his aid: because he needeth not to goe thither, and he may prouide so; himselfe by Suretie of the Peace, 21. H. 7. 39. Fineux.

And if many be assembled, and none of them knoweth to what end, it can make no Riot, no Riot (as M. Marrow thought) till the intēt be knowne. For if the master intend to make a Riot, and take his vsuall seruants with him, not forgettelling them what he intendeth to doe, and then committeth an outrage with them, this is no Riot in them: so; although he shall be punished, they shall be excused. But otherwise it is, if he make them priuie to his purpose, so; then they also shall be punished: Mar. & Rep. Dalison. And in the former case it is not materiall, whether his number of seruants be aboue his degree, or no, so long as they be his Menials, or household men, Dalison.

If many bee at an Alehouse, a Christmas dinner, or Churchale, and (without any intention of an Affray) they sodainly fall together by the eares, and make it *Lapitharum conuuiuium* yet this is no Riot, but a sodain affray, because they had no such intention but if (in that affray)

they shall betake themselves to sundrie parts) it may become a Riot, as Marrow thinketh: then it is not the first, but a new assembly (as it were) in his meaning.

And if twelue Jurors (being committed to their keeper) do fall out and fight, fir against fir, this maketh no Riot (saith Marr.) because they were lawfully assembled, and were compelled to be in companie together.

But, if a number of women (or children vnder the age of discretion) do flocke together for their own cause, this is none assembly punishable by these statutes, vnlesse a man of discretion moued them to assemble for the doing of some vnlawfull act, as *Sp. Marr.* writeth.

Yet I remember well, that (not many years agoe) sundry women were punished in the star chamber, and that worthily: because, putting off that shamesfullnesse which becometh their sex, they arrayed themselves in the attyre of men and (assembling in great number) most riotously pulled doونه a lawfull inclosure.

Finally, Marrow noteth, that if the *Paish* and *Communitie* of a towne doe assemble and make a Riot in their common quarrel, this offence shall be iudged and punished in their *Parish* for all persons, and not in their body politike.

Thus far you see, what these offences be, and in what manner they may be committed: now therefore behold what power one Justice of the Peace hath ouer them.

One Justice of the Peace, can neither make
inquire of a Riot or Riot when it is done, nor
assesse any fine, nor yet award any proces for it
nor otherwise meddle with it (in the verie na-
ture of a Riot or Riot) but only as a trespass a-
gainst the peace, or upon the statutes of North-
ampton, or of Forcible entries, whereof I have
before treated.

And therefore, if he heare of any Riot, or of
any intention of a Riot, hee alone (or with his
servants) may goe to the place, and such as hee
findeth riotously assembled and armed, he may
arrest to find suretie of their good behaving and
may commit them to ward, if they refuse to
give it, and may take their weapons from them
And if he come to the place, & doe not find them
yet commen'thither, he may leave his servants
there, to make such arrest when they shal come
So also, if he be sick, he may send his servants
to the place to arrest them.

And this is the Judgement of all the Court,
in that case of Sir Thomas Greene, 14 H. 7. 8.
in the booke at large: grounded upon the words
both of the Commission of the Peace, and (as I
take it) of the statute 34 E. 3. cap. 1. For, that
which is found in the report of that same case
(made by Fitz. tit. Iustice del Peace, 9.) having
many other matters (not extant in the booke of
the Termes) seemeth rather to pertaine to the
statute 13. H. 4. cap. 7. then to the statute of
E. 3.

Record of
Riot.

But, if one Justice of the Peace alone, will take vpon him to record a Riot that he seeth, the party shall not be concluded thereby: for he may traueis it: and if the Justice will commit one to ward, pretending vntreuly that he did a Riot where he did none, an Action of trespass lieth for the party against him. Fitzh. Tit. Iustice del P. 9.

So that (vpon the whole matter) one Justice of the Peace alone may doe somewhat to prevent a Rout or a Riot, before it be done, and for the stay of it whilest it is in doing, but nothing (in effect) to punish it as a Riot or Rout, when it is committed and don. For (as Judge Fineux saith) in that case of Sir Th. Greene, the Statute (which I take as I said to be that of 34. of E. 3. rather 13. H. 4. which by expresse words requirith the presence of two Justices at the least) was ginen as a hastie remedie, and for to prevent a mischiefe being imminent and before the eye: and therefore the Law shall largely construe the authoritie of a Justice of Peace in that behalfe: So that he shall neither need to make any Precept in writing, nor to expect the coming of his companions, nor to be present in his owne person, but may vse all reasonable meanes for prevention and stay of the euill. And yet the ordinarie power of punishing Routs and Riots, resteth not in his hand alone but rather belongeth vnto two Justices of the Peace, as it shall hereafter appeare.

In the meane while, it shall not be amisse to adioine somewhat for supply out of the Statutes of our owne age: the which seeing further into the perils that insue of these disordered companies, haue also provided further, as well in policie to pzenent, as in seueritis to punish them.

The statutes (1 Mar. Parl. 1. cap. 12. & 1 El. cap. 17.) doe make thre degrees of Riots and seditious assemblies, in certain speciall cases: the first, consisting of the common number of thre persons, and being vnder the number of twelue: the second of twelue persons or more: and the third of fiftie persons and vptward: all which are to be punished diuersly, according to the number, intent, act, and obstinacie of the parties assembled: wherein there is some imitation of an ancient Law that the King has made against theus, whose degrees in offenses he also seuered & punished by their number saying thus *Deo far we hat þoððe feofan menn; fram feofan hloþ oþ rif 7 þpiv vizi 7 7yððan hefe; that is, Theeves we call them vntill the number of seven men: from seven a Troupe, vntill 35. and an Army aboue that number. But I will proceed.*

Rebellious
and unlawful
assemblies.

One Justice of the Peace therefore may (by Proclamation
vertue of these Statutes) make or cause to be made a Proclamation in the Kings name, (after thre Oyes) thus: The King our Soueraigne Lord chargeth and commaundeth all
persons

persons being assembled, immediately to disperse themselves, & peaceably to depart to their habitations, or to their lawfull business, vpon the paines coneyned in the act lately made against vnlawfull and rebellious assemblies : And God saue the King.

And hee also may (at his discretion) assemble his Maiesties subjects to take them : and may take them indeed if they disobey : and shall bee unpunished fo; the hurting, maiming, or killing of any of them, if they make resistance. He also is to take the declaration of any person, that (being moued to any such assembly) will within foure and twentie houres after reucale the same vnto him.

Now must I here stay, and (fo; a time) go no further with these assemblies: because the power of one Justice of the peace faileth me, and extendeth no further in them : therefore the rest shall bee disclosed, when order shall leade vs to
• intreat of the authoritie of two Justices.

What

What other things any one Iustice
of the Peace alone may doe out of the Ses-
sions, by vertue of Statutes mentio-
ned in the Com-
mission;

CAP. VI.

Before that I shall descend to shew Statutes ly-
ing close in the
such further parts of power as be-
given to one Iustice of the Peace
by later Statutes, it shall not bee
mistake to take in any way, the remnant of his au-
thoritis which lieth closed in his first Assigna-
ment of the Commission, and hath not been yet
fully applied to the practise.

The whole consisteth of such members as I
haue already shewed, namely, of the Statute
made at Winch. 13.E.1. of the statute made at
North. 2.E.3.cap.3. the statute made at West. 5
E.3.cap.14. and the statute made at Camb. 12.
R.1.

Of that statute at Northampt. I haue here-
tofore said what I thought. Concerning Winc.
and West. and the rest I say shortly now, that
by the force of the Commission, one Iustice of
the Peace may put the articles of them in exe-
cution: First, by commanding fresh suit, hue
and cry, and search, to be made by the Sherifes
Baillifs

Bailiffes, and others, after thefts and robberies: by entoyning watches to be kept for arresting of suspected persons, and of night walkers: and high waies to be enlarged: When by seeing that two Constables be chosen in each Hundred and Franchise: by forbidding faires and markets to be holden in Church yards: by compelling such as be betwene the age of fifteene yeres and threescore, to be swozne to the Peace, for that also is in the Articles vpon the statute of Winton: and lastly, by charging Constables to arrest such as shalbe suspected to be Dyablatches, Tylastors, or Robbersment, that is to say, either mitching, or nightie thienes: for the meaning must remaine, howsoener the word be gon out of vs.

And I do not think, that any other maner of execution of these lawes (by one Justice of P.) ought to be gathered by the generall words of the first *Assignamus*.

I know that *Sp. Firz.* (in his *Nat. Br.* fol. 82.) saith, that albeit a Justice of the Peace hath none expresse authoritie within his Commission to take a Recognisance of the Peace, yet of Congruence it followeth, that he may take it, because hee hath authoritie in plaine words, to cause the Peace to be kept, and to compell men to finde Suretie for the same: and it is a rule of Law, *Concesso uno aliquo, etiam id concedi videtur, sine quo prius concessum haberi nequit*: but how farre these things may be drawn, I will not

not determine, remembering that this also is another rule, *In generali concessione non veniunt ea, quæ quis non esset verisimiliter in specie concessura.*

This (to be plaine) I doe not like, that one Justice to the Justice of the Peace should take upon him to bind an offender against any penall Law, (being within the power of Justices of the Peace, but yet neither comprehended in the Commission, nor committed to the charge of any one of them) to appeare at the Session, to answer to his fault. For, although I have seen many old Precedents and Attachments made from one Justice of the Peace against Labourers, to be before the Justices at their Sessions, to answer to their contempts: yet I am not perswaded, that the like may be done against the offenders of other Statutes, unlesse it be specially therein so appointed: no more then it might have bin done in that case of Labourers it selfe, had not the Statute of Labourers (25.E.3.cap.6.) expressly commanded it.

And I doubt not, but they of the late Parliament were also of this minde with me: For, if they had thought it generally lawfull so to do, they would not have so specially provided for it as you shall anon see in the notes of the Statutes 4.Eliz. touching Servants, and (23.Eli.) against Slanderers and newes, and against the taking of Whelants and Partridges.

And surely much harme followeth of it: for it falleth

falleth out most commonly in experience, that those Justices which be most buisie to take such bonds, be no lesse readie to release them: and so (playing fast and loose) they keepe (as it were) priuie Sessions within their owne houses, in which, both the King loseth his fine, and the common wealth an example: and if the offender lose also, then that (belike) falleth to the share of him that worketh the deliuerance.

And therfore, if were better (as I wene) that such offenders were first indicted, and then that Prozesse were orderly awarded against them, untill that either they yielded themselves, or were taken, or outlawed: the which manner of doing, as it is better warranted of the twaine: So both it recompence the delay of the punishment with the weight of the paine, and shall profit more then the former.

There is one other thing also, wherefore I thought meet to admonish our Justice of peace in this place. Many of them doe vse to give out their Precepts to attach persons suspected of felonie, to the end to haue them brought before them: which thing is neither newly deuised by them, nor done without colour: for they haue such a precedent in the olde booke of Justices of the peace, fol. 41. and there is no doubt, but that if a felony be don, euery man may arrest whomsoever he suspecteth of it. But for all that, the whole Court (14. H. 8. 18.) condemneth such precepts: because, if the Bailie, which serueth the

the warrant; haue suspition in the partie, he may of himselfe (without the warrant) arrest him: and if he haue not, then is the warrant of a Justice of peace no warrant to arrest him, unless he be indicted before.

What other things one Justice of the Peace may doe, out of the Sessions, by the power of other Statutes, not mentioned in the Commission, and therein of manslaughter, and all other Felonies.

CAP. VII



Seeing the whole power of one Justice of the Peace (as well in the vertue businesse of the peace it selfe, as in the execution of some Statutes implied in the Commission) hath now at length been rehearsed: It is convenient to sum vp such other parts of authoritie also, as other Statutes haue put into his hands: which don, we will no longer treat of one Justice alone, but will associate some other vnto him.

Any one Just.
of the peace.

Euery Justice of the Peace, is a conservator of Rivers within his Countie: and (when he may attend it) ought to suruey the Weares in rivers, & they be of reasonable widenes: & shall suruey

Conservator
of Rivers.

surwey the offences of taking Salmones in any
waters (out of the Countie of Lancaster) be-
twene the Nativitie of the virgin Marie, and
S. Martins day, and (there) betwene the feast of
S. Michael and the purification of the said vir-
gin, and of taking yong Salmones at millpools
or other places, from the middell of Aprill till
Episommer, and of casting nets into any wa-
ters (by which the fry of any fish may be taken)
and may punish the same by burning of their
nets and engine. West. 2. cap. 47. 3. R. 2. c. 19. &
17. R. 2. c. 9.

Apprentices
servants and
labourers.

And one Justice of the Peace may take vpon
him to heare and order the controuersies, be-
twene masters and servants, touching their
departure, and may allow of the reason, and
sufficiency of the cause so; which a master may
put away his retained servant, or so; which the
servant may depart befoze the end of his terme:
& he may (in hay time, or harvest) vpon request
& so; the sawing of cozn, grain or hay, cause such
artificers and persons (as be meet to labour) by
his discretion, to serue by the day, so; the get-
ting, cutting, inning, or carrying thereof, accor-
ding to the skill & qualitie of the person: & may
(vpon his refusall) imprison him in the stocks,
by the space of two daies & one night. And his
testimoniall vnder his hand and scale to such as
may passe in hay & harvest time, from one hire
to another, is sufficient. And he also vpon com-
plaint made, may commit that partie to ward,
that

that in his iudgement shall be thought meete,
and yet shall refuse to bee bound as an appren-
tice, according to the intent of the statute, there
to remaine untill hee bee contented so to bee
bound. And he also may by his discretion vpon
the complaint of the apprentice, take order be-
twene his master & him, and so; want of con-
sommittie in the master, may bind him to ap-
peare at the next Sessions befoze the Iustices,
5.Eliz. cap. 4.

Upon information to any Iustice of Peace, Hunting.
of any vnlawfull hunting by night, or with
painted faces, or other disguising (in Forrest,
Parke, or Warren) of any person to be suspec-
ted thereof: that Iustice may make a warrant
to the Sheriffe, Constable, Bailiffe, or other of-
ficer, to take the partie, and to haue him befoze
him, or any other Iustice of the Peace in that
Countie, who may examine him of that hun-
ting, and of the doers in that behalfe: and if he
do wilfully conceale that hunting, or any per-
son with him defeating therein, then the same
concealment shall be felonie in such concealor:
but if he confesse the truth of all that he shall be
examined in that behalfe, then his offence of
hunting shall be but trespass, and finable at the
next generall Sessions of the Peace there, 1.H.
7. cap. 4.

Every Iustice of the Peace, may (as well Vnlawfull
games.
within Liberties or without) enter into any
common house or place, where any playing at

the bolles, coits, closh, cailes, halfe bolles, tennis, dice, cards, tables, or at any other game, prohibited by any former statute (of which sort be football, and casting of the stone, by 12. R. 2. 10.) or playing at any unlawfull game (already inuented, or hereafter to be inuented) shall be suspected to be vsed against this statute : and may arrest as well the keepers of such places as the players there, and imprison them untill those keepers find sureties to the Kings vse (to be bound by a Recognisance, or otherwise) no longer to occupie any such play or place : and that the persons found their playing, be in like sort bound by themselves, or with sureties (at the discretion of the taker) no more to play, or haunt, at, or to any of the said places, or at any of the said games. And euerie Justice of the Peace, finding, or knowing any person (not excepted by this statute) to vse any unlawfull game, contrary to this Act, may commit him to ward, there to remaine without Bails or Painpise, untill he become bound by Obligation to the Kings vse (in a summe to be thought reasonable to that Justice) that hee shall not from thenceforth vse such unlawfull games, 32. H. 8. c. 9.

That.

The Inkeeper, Wictualer, or Alehousekeeper, that doth suffer any to continue tipling in his house, contrarie to this act, shall forfeit *x. s.* and that selleth lesse then an Ale quart of the best Beere or Ale, and of the small, two quarts for a penny

pennie, x. s. to the poore of the parish for every offence, upon view of the offence by any Justice of Peace, or upon promise thereof by two witnesses before any Justice of Peace. And for want of distress for such forfeiture, the offender may be committed by such Justice of Peace to the common Gaole till the same be paid. And by warrant from one Justice of Peace, the forfeitures of Constables for neglect of their duties, touching this act, may be levied by distress, and in default thereof, they may by him be committed to prison till the same penalties be paid, 1. Jac. c. 9. See 7. Jac. c. 10.

And upon such view of any Justice of peace, *Tipling.* or promise by witnesses before such Justice, the offender (in continuing tipling in an Inn, Victualling house, or Alehouse, in the towne where he dwelleth, contrarie to this act) shall forfeit *ij. s. iij. d.* to the poore: And if such offender be not able to pay the same forfeiture, such Justice of Peace may set him in the stocks for four hours, 4. Jac. c. 5. See 7. Jac. c. 10.

Any Justice of peace in Lent time may enter *fish.* into common victualling houses, &c. and finding any Dren, Beenes, Beunets, Hogges, Calves, Hames, Ewes, or Wenethers, killed or dyessed contrarie to this statute, may seise the same as forfeited, to be distributed to prisoners, & other poore folkes by his discretion, 1. Jac. c. 19.

Any one Justice of peace (by the large words *the* of the Statute) may enquire, heare and deter-

mine by his discretion, as well by examination as otherwise, the offences committed in Talemaking, and Assesse the fine therein limited. And may call befoze him (at any time or place) such as haue best knowledge in Talemaking, and appoint them searchers of the said defaults 17 E. 4. cap. 4. But learne whether it be so to be taken or no.

**Souldiers
selling hors or
harnesse.**

If any Souldier, seruing the King in his warres, doe sell, giue away, willfully purloine, exchange, alter, or put away, any horse, gelding, mare, or harnesse, wherewith hee shall bee furnished, or which (being taken from any other Souldier) shall be appointed vnto him, and doe escape the punishment, which the Lieutenant, high Admirall, the Kings Deputy, the Vice-admirall, Mardein, and Captaine, and their Deputies, in their absence may lay vpon him, by this statute: then vpon complaint & due proof of the offence, to be made by the owner, his executors or administrators, to any Justice of Peace, whersuch offender shall be found, he shall by him be committed to ward (there to remaine without Baile or Paimprise) till he shall haue satisfied the owner, his executors, or administrators, of such horse, gelding, mare, or harnesse, so sold, giuen away, &c. vnlesse he bring with him befoze the same Justice sufficient testimony from the said Lieutenant, or any of the persons aboue named (in writing vnder their Seals) testifying, that the said horse or

hau

hennesse was lost in the Kings service against
his will of the Shoulde, or was taken by any
of them from him for any reasonable respect,
was appointed to some other to serue withall,
1. & 3. E. 6. cap. 1.

If any person (to whom any Agnus Dei, Agnus Dei,
Crosse, Picture, Beade, or such superstitious
thing from the See of Rome, or the authoritie
thereof, shall be offered or deliuered) do disclose
the name and dwelling (or place of resort) of
such offerer or deliuerer, to any Justice of the
Peace of that Shire, where hee to whom such
offer or deliuerie is, shall be resiant: then the
Justice must (within fourtene daies next after)
betraye the same to some one of the Kings pri-
uie Councell, 13. El. c. 2.

If any offender (contrarie to the statute pro- Disturbe
vided against the disturber of any Preacher) Preacher.
shall be arrested and brought before a Justice of
the Peace, then he (upon due accusation there-
upon had by the said arrestor, or other person)
shall forthwith commit the partie so taken to
safe custodie, by his discretion, 1. M. Parl. 1. c. 3.
But enquire, if all this statute be not repealed
by 1. El. ca. 2. in generall wordes at the later end
thereof.

Euerie Justice of the Peace may (within one Egyptian
moneth after the arrivall) seize all the goods of
any outlandish persons (calling themselves
Egyptians) that shall come into this Realme:
and may also keepe the one moiety thereof to his

owns vñs, making account to the King in the
 Eschequer for the other moiety. And euery per-
 son that can proue by two credible witnesses
 before him that so seileth, that any of those goods
 were craftily or feloniously taken from him,
 shall be incontinently restor'd thereto before the
 parties that so seised them, vpon paine of the
 double value thereof to be forfeited to such pro-
 uer, 21. H. 8. c. 10. But note, that (after the man-
 ner) the offence is made felonie, and then it
 seemeth the King is to haue the goods wholly,
 1. R. 2. P. & M. c. 4.

Enrolment.

If any one Justice of the Peace doe ioyne
 with the Clarke of the Peace, in taking the
 Enrolment of an Indenture of bargaine and
 sale of lands, tenements, or hereditaments, be-
 ing in that county where he is Justice, it is suf-
 ficient, as it seemeth by the words of the Statute
 27. H. 8. c. 16.

**Worke of
 wares.**

Euery Justice of the Peace may examine &
 search (by his discretion) such as doe sell or let
 forth to be sold, any Candles, or other wares
 of Ware, at higher price then after the rate of
 iij. d. the pound, ouer the common price of plain
 ware, betwixen merchant and merchant; and
 may also punish them by forfeiture of the
 worke set forth to sale, and of the value of the
 which is sold, and by fine to the King, 11. H. 6.
 cap. 12. as it seemeth by the large words of the
 Statute.

Wise of felow

Any one Justice of peace is warranted to

in the Billorie in the next Market Towne to the place of offence, any person that hath broken the assise of Jewell, and is convicted thereof, and is not able to pay the forfeiture, there to be at eleven of the clocke on the Market day, with a Billet or fagot, bound to some part of his body, 7.E. 6.c.7. But consider where a Justice of Peace may convict him of the said forfeiture or no: for it seemeth by the words of the statute, that he is rather a minister then a iudge in that case.

One Justice of Peace may commaund persons dwelling in infected houses to keepe in: And if, notwithstanding, they attempt to goe abroad, they may be violently enforced to keepe their houses, or doe goe abroad, they become felons, or punishable as vagabonds, in severall cases mentioned in the statute, 1. Iacob. cap. 31.

Any Justice of Peace of that Limit, Division, or Libertie, where the partie dwelleth, upon oath by confession of the partie, or oath of witnesses, may call before him the partie offending in not repairing euerie Sunday to Church, according to the statute (1. Eliz. ca. 2.) and if he or shee cannot make a sufficient excuse, and p[ro]ve thereof, the same Justice may giue warrant to the Churchwarden to distreyn for his or her default: and so want of distresse, may imprison the offendo[r] untill payment be made, 3. Iac. c. 4.

Plague.

Repairs to Church.

Repaire to the
Church.

If any person (aboue sixteen yeres of age) doe by the space of twelue moneths forbear to repaire to some Church, Chappell, or usual place of Common prayer, contrarie to the tenor of the statute (1. Eliz. ca. 2.) then any Justice of Peace of the Countie where such offendo; shall dwell or be, may make Certificat thereof in writing into the Kings Bench, to the end that the offendo; may thereupon be bound in C. li. at the least with sufficient sureties to the good behaviour, for that his long obstinacie, besides the other penalties, 13. El. c. 1.

Jesuits & seminaries, &c.

Any Justice of Peace within that Countie, in which any Jesuit, Seminary Priest, or other Priest, Deacon, or Religious, or Ecclesiastical person (mentioned in this statute) shall arrive, land, may within thre daies after, take the submission, oathe, and acknowledgement of him, touching his obedience to the Kings Maiesty, and to his Lawes and Ordinances provided in causes of Religion. 17. El. c. 7.

And everie subiect, having understanding that any such Jesuit, Seminary priest, or other the aboue said, shall be within any the Kings Dominions, contrarie to the meaning of this statute, ought to discover the same unto some Justice of the Peace (or other higher officer) within twelue daies after such his knowledge, under the paine of a fine or imprisonment: And that Justice of the Peace ought (within eight and twentie daies after such discoverie made unto

into him) to giue information thereof to one of the Kings priuie Councell, vnder the paines of CC. markes. 27. El. c. 1.

The partie (that doth first discouer to any Iesuits, &c. Justice of Peace any Recusant or other enter-
taining or releiuing any Iesuit, Seminarie, or
Popish Priest, or any Masse to haue been said, &c.
and any of them that were present therat,
within three daies after the offence, & by reason
of his discouery any the offendours be taken and
conuicted) shall be freed from danger of the of-
fence (if he be an offendour therein) and haue the
third part of the forfeiture by such offence. 3. Ia.
cap. 5.

Before some Justice of peace of the county, Recusants.
Liberty, or Limit, where the parents of a child
sent beyond Seas without licence, did dwell,
such child must take the oath expressed 3. Ia. c. 4.
And they that were beyond Seas before the ma-
king of this act, are to take the same oath with-
in six monethes after their returne, before some
Justice of Peace, where such persons inhabi-
teth : before they can take the benefit of any
gift, conueiance, &c. of any lands, tenements, &c.
3. Ia. c. 5.

Whose persons of or above the age of xviij. yeres Oath of
(vnder the degree of a Baron or Baronesse) Allegiance.
which stand presented, indicted or conuicted for
not coming to Church, or receiuing the Sacra-
ment : or which by the Minister, Petie constable,
& Churchwardens, or any two of them are
com

complained of to any Justice of Peace, and by him suspected, may by such Justice, within whose power such person is, or to whom such complaint is made, be required to take the oath of Allegiance: and upon refusall may bee committed by such Justice to the common Gaole, without Baile or mainprise, till the next assises or generall quarter Sessions, 7. Jac. c. 6.

Whelants and
Partridges.

Everie Justice of peace may examine offences against the statute made for preservation of Whelants and Partridges, and against hawking in cozne (if the same offences be not before lawfully heard or determined otherwise) and may take bond of the offender with good sureties for his appearance at the next generall Sessions of the Peace, to answer to the said offence, and to pay the penaltie, or to receive the punishment due thereto: and may also after conviction and punishment of such offender in taking or killing Whelants or Partridges, take like bond of him and sureties, that (for the space of two yeres) he shall not offend against the said Statute, 23. El. c. 10.

Whelants and
Partridges.

Any one Justice of Peace may take the Recognisance appointed to be taken by offenders in taking Whelants or Partridges with setting dogges and Nets, or with other Nets, Snares, or Engines (contrarie to this statute) which Recognisance is to be returned to the next quarter Sessions, there to remaine of Record as other Recognisances, taken for the P.

7. lac. cap. 11.

It seemeth that one Justice of the Peace, ^{plaints to} may (upon complaint of the partie grieved) ex- ^{the Countie} amine the Sherife, Undersherife, and Plaintiff, ^{Courts.} concerning the taking or entring of plaints in their Countie Courts and Wokes against the Statute : and if hee finde thereby any fault or offence committed, that shall stand for a sufficient conviction and attainder, without any further enquire or examination : So may hee also examine the Bailife of the Hundred, for not warning of the Defendant in such a plaint, according to his precept from the Sherife or Undersherife, and if thereby hee find any default or offence, that also shall stand for sufficient condemnation. And the said Justice must certifie those examinations within a quarter of a yeere into the Exchequer, 11. H. 7. c. 15.

The Certificat of one Justice of the Peace ^{Certificat of} (ioyned with the Customer of the place) of ^{selling Cozne.} the unlading and selling of Cozne, Graine, or Cattell, carryed by water from one place to another of this Realme, unto the Customer and Controller of the place where the same was imbarked, is sufficient and enough upon the statute of forrestalling, 5. Ed. 6. c. 14. & 13. Eliz. cap. 25.

One Justice of Peace may take out of sanctuary certaine persons abjured thither; and ^{persons} others being indicted of some kind of offences ^{ment}

(mentioned in the statute) done after they be come Sanctuary men: and may commit them to the gaole in the county where the indictment is found, till they be tryed, 22. H. 8. c. 14.

Robberie.

No person shall (after that he shall be robbed) bring any action vpon any the statutes concerning Hue and Cry, except he shall first (within twentie daies next before such action brought) bee examined vpon his corporall oath before some one Iustice of the Peace of the Countie wherein the robberie was committed (inhabiting within or nere the Hundred where the robberie was committed) whether he do know any of them that did the robbery: and if vpon such examination he doe confesse that he knoweth any of them, then also shall he (before such action be brought) enter into Recognisance before the same Iustice effectually to prosecute such persons (so knowne) by Enditment, or otherwise, according to the due course of the Lawes of this Realme, 27. El. c. 13.

Halt.

If any Bailife or Constable, of any borough or other towne, shall find any Halt, made contrarie to the statutes (1. & 3. R. 6. c. 16. & 27. El. ca. 14.) then, with the aduice of any Iustice of Peace within the shire, he shall cause the same to be sold to such persons, and at such reasonable prices (vnder the common price of the market) as to his discretion shall seeme convenient.

Halt.

The partie convicted and committed to prison, by the Iustices of Peace, for not obeying this

this restraint of converting Barley into Malt, must there remains thre daies, and after that untill he shall become bound in recognisance of xli. to the Kings use before any Justice of the Peace, to obey such his restraint, 39. El.c. 16.

By warrant of any one Justice of Peace, the Constables and Churchwardens, where any offence is committed in destroying the Spawne and broode of Sea-fish against this Act, may leaue the forfeitures of the offenders by distresse and sale of goods, 3. Jac. cap. 12.

Spawne of Sea-fish.

Curie Justice of the Peace (as it seemeth) within the Shires next adjoining to the River of Thames, within his severall Jurisdiction, hath power (upon complaint made unto him) by the Overseers and rulers of the Watermen and Wherryemen (or two of them) or by the masters of any such servants, both for to examine, heare, and determine, all offences against the Statute, and to set at large him that shall be imprisoned by such Overseers or Rulers (if their bee iust cause) and also by his discretion to punish those Overseers and Rulers, that shall unjustly punish any person, 2. & 3. Ph. & Mar. cap. 16.

Watermen.

Any Justice of Peace (within six months after the sale in market overt, of any stolen horse mare, gelding, colt, or filly) may take the claim and heare the proofe of the right proprietarie thereof, 31. El.c. 12.

Stolen horse.

Any

**Seditious
Dentaries.**

And one Justice of the Peace may within thre moneths after the conviction of any seditious Dentaries (described in the statute 35. El. c. 1.) require the submission of him to conformitie, and in default of such submission, may require him to abiure this Realme, 35. El. c. 1.

**Not to come
to Church**

Everie Justice of peace also may give notice to any person to forbear to relin, or keepe such as shall obstinately refuse to come to the Church by the space of a moneth together, 35. El. c. 1.

Rogue.

Any Justice of the Peace may appoint any person to bee openly whipped naked untill his or hir body be bloudie, that shall bee taken begging, wandring, or misordering him or herselfe and is declared by the statutes (39. El. c. 4. & 1. Jac. ca. 7.) to be a Rogue, Vagabond, or sturdie Begger. And shall cause such person so whipped to be forthwith sent from Parish to Parish, by the officers of everie the same, the next streight way to the parish where such person was borne if that may be knowne by the parties confession or otherwise: and if not, then to the Parish where such person last dwelt befoze that punishment, by the space of one whole yere, there to labour: Or (not being knowne where such person was borne or so dwelt) then to the Parish through the which such person last passed without such punishment. And such Justice shall vnder his hand and seale make a Testimoniall witnessing such punishment, and the day and place thereof, and mentioning the place

to which such person is limited to goe, and by what time, at his or her perill, and in case such place of birth, or last dwelling be not knowne, then such person shall by the Officer of the village (through which he or she last passed without punishment) bee conueied to the house of correction of the limit wherein that village is, or to the common gaole of that place or countie, there to remaine in worke till such person bee placed in seruice for one yeeres continuance: or (not being of able bodie) till such person shall be placed in some Almshouse of that place or countie, 39.El.c.4. 1.Iac.c.25.

*The forme of which Testimoniall, may in effect
be the same, which was lately in use by the
Statute 22. Henr. 8. cap. 12.
now repealed, viz.*

Iohn at Stile, a sturdie vagrant begger, of lowe *Kent.*
personage, red hayred, and hauing the nale of
his right Thumbe clouen, was the sixt day of A-
prill, in the second yeere of the raigne of our So-
ueraigne Lord King *Iames*, openly whipped at
Dale in the said Countie, for a wandring Rogue
according to the Law: and is assigned to passe
forthwith from parish to parish by the Officers
thereof, the next straight way to Sale in the
countie of Middlesex, where (as he confesseth) he
was

was borne (or dwelled last by one whole yere &c. if the case be such) and he is limited to be at *Sale* aforesaid, within ten daies now next ensuing, at his perill.

By the occasion of this Testimoniall (or passe) I thought it seruiceable to aduertise, that it is needful, both in this and in all other Testimonials, Certificats, Safe conducts, and Passports whatsoever, to annote & specifie expressly, some assured marks of the party, as his stature, color of haire, complexion, or (if it may be) some apparant skar, or other note, by which he may be infallibly distinguished and knotone from others: least (as I haue often found) both himself take the benefit thereof, and he also communicate the vse of the same to others, in abuse of him that made it.

And by occasion also of this power given to one Justice for correction of Rogues, I trust that I may (without offence to any) make public vse of those grane resolutions & aduises, that being in the hands of sundrie men abroad, are commonly ascribed to the late N. Maiesties Justices at west. and do tend much to the right execution of this and the other Statute (39. Elizabeth. Regin.) concerning Rogues and the poore, which onely (of all our Lawes) haue most Christianly and ciuilly given order in that behalfe, and are therefore with so much the more care and diligence to be put in vse amongst

amongst vs, as they will not only deliuer vs of the present burthen, but also destroy the very head of this unruly people.

Thus they stand in my Copie, viz.

A Rogue affirmeth that he was boyn in such a towne in such a County: then ought he to bee sent thither, if it may not otherwise appeare that he was boyn elsewhere: and if hee were not boyn there in truth, then is he to bee said an incorrigible Rogue, and is to bee sent thence to the house of Correction in the Countie to which hee is sent, and if there bee none there, then to the Gaole, untill the next Sessions, there to bee dealt with according to the Statute.

2 The same course is to be observed, if it appeare not where hee was boyn, or if hee truly affirme, that he was last dwelling in such a town, in such a countie, by the space of a yere, and was not.

3 If the husband or Wife haue a house, and the Husband or Wife rogue about, they ought to be sent to the town where that house is: and so of an Innmate.

4 The Wife and Childzen (vnder seven yeares of age) being vagrant, must goe and be placed with the Husband: if the Husband bee dead, then with the Wife where she was boyn, or dwell. And the vagrant Childzen (aboue seven yeares of age) must bee sent to the place

of their birth, and if the vagrant parents with their children (vnder seven yeares) bee placed at the place of birth of the Parents, or at the place of last dwelling (as the case shall fall out) if afterward the parents or either of them die, or runne away, yet the children once settled, must remaine there still, and may not be sent to their place of Birth, though after they grow above the age of seven yeares.

5 The Wife being a vagrant Rogue, ought to be sent to the Husband, though hee be but a servant in another towne.

6 The Rogue whose place of birth (or dwelling) cannot be known, hath wife and children vnder seven yeares of age: they must goe with the Husband to the place where they were last wilfully suffered to passe without punishment: where the children must bee relieved by the worke of their parents, though the parents be committed to the house of Correction.

7 If any (not being Rogues) shall travel with their children through a Towne, and the father or mother die, or runne away, the towne is not bound to keepe them where they die, nor to send them away, but only in charitie, except they become wandring Beggars.

8 If the Parents bee able to worke, and may have worke, they are to finde their children by their labour, and not the Parish: But if they be overburthened with children, it shall bee a very good way, to procure some of them

to be placed Apprentices according to the Statute.

9 No man is to bee put out of the Towne where hee dwelleth, nor to bee sent to their place of Birth (or last Habitation) but a vagrant Rogue, nor to bee found by the Towne, except the partie bee impotent, but ought to set themselves to labour, if they bee able and can get worke, if they cannot, the Quersers must set them to labour: And so of them that haue or shall haue houses, when their estates be expired: And Seruants whose times of seruice are ended, though they cannot get houses: for they must prouide themselves houses anew if they be not impotent.

10 Such persons as be of any Parish, and haue able bodies to worke, and bee no wanderers abroad out of the Parish, though they refuse to worke at such Wages as is taxed (or commonly giuen) in these parts, are notwithstanding not to be sent to their place of Birth, or last dwelling by the space of a yeare, but to the house of Correction, vpon consideration had of both the Statutes, of the poore and Rogues. But if they haue any lawfull meanes to live by, though they be of able bodies, and refuse to worke, yet are they not to be sent to the house of Correction.

11 Such as will Remooue or put any out of their Parish, that bee not to be put out, this is against the Statute, concerning the reliefe

of the poore, and finable : And if any haue been so sent, they may be sent backe againe.

12 If any be sent to a Towne whereto hee ought to be sent, and is refused (being a Turke or an impotent Rogue) the persons refusing, shall forfeit five pounds, and he that is so to be sent, is to be offered to the Churchwardens and Quersers,

13 To send the Rogues by a generall Passport, without conueying them from Parish to Parish, is a let to the conueying of Rogues according to the Statute, and so a forfeiture of five pounds vpon them. And to go with such a Passport, is but still to continue a Rogue, to be punished by whipping.

14 If the Officer will not receiue a Rogue to conuey him to y^e place where he was borne, (or dwelt) this is a forfeiture of five pounds in the Officer, that shall not receiue the partie, to conuey him or her ouer.

15 None may bee suffered to take reliefe at any mans doore, though within the same Parish, vlesse it be by the order of the Quersers, according to the statute, neither may any bee suffered to begge by the highwayes, though in their owne Parish.

16 By this word Parents, is vnderstood a father, or a grandfather, mother, or grandmother, being persons able.

17 Within the word Children, is included any child, or grandchild being able.

18 Parsons, or Vicars, &c. be bound (as inhabitants) to the reliefe of the poore, as well as others that inhabit within the Parish.

19 Every one that hath tithes appropriat, Coale mines, or lands in manuell occupation, &c. is chargeable. And so for such as haue saleable woods, proportioning the same to an annuall benefit.

20 If there bee but one Churchwarden in the parish, he sufficeth with the other foure Overseers.

See the Stat. 7. Jac. cap. 4. for the due punishment of Rogues, Vagabonds, & sturdy beggers, and other lewd and idle persons.

Upon Information given to any Justice of Logwood. the Peace, against any person suspected to offend this statute, concerning Logwood, (alias Blockewood) such Justice may by his Warrant, or other Commandement, cause to come before him, and examine (by Oth or otherwise) the servants, or workemen of such suspect, or other persons, able to disclose the offence: and upon finding the same, to binde with Suretie, to the next Gaole delivery, or Quarter Sessions of that County, as well such suspect, as Criminates, and to send thither the said Examinations also. And if such suspect shall refuse to be so bound, then may such Justice send such suspect to the next Gaole, there to remaine, till he or she shall become so bounden, 39. Eliz. cap. 11.

**Northen
Cloth.**

Every Iustice of the peace of any of the countie on the North side of y^e river of Trent, hath some power in searching out the deceit of straying or stretching those countrey Clothes, Kerfies, Cottons &c. contrary to the Statute, 39. Eliz. cap. 29.

**Charges of
conueying an
offendoꝝ to
pꝛison.**

Any Iustice of Peace, hauing committed to the Gaole an offender, refusing to defray the charges for conueying him thither, may giue Warrant to the Constables or Tythingmen, to sell so much of the offendoꝝs goods, as will satisfie such charges: And where the offendoꝝ hath no goods, the taxation made on the towne where hee was taken, must be allowed vnder the hand of one Iustice of Peace: And by warrant from such Iustice, the goods of the person refusing to pay such Assesse, may bee distreined and sold, 3. lac. cap. 10.

**Examination
of Felons.**

Every Iustice of the peace, before whom any person (arrested for Manslaughter, or Felony, or suspicion thereof) shalbe brought, ought (before he commit him to pꝛison) to take the Examination of such prisoner, and the Information of those that bring him, and to put the same (or so much thereof, as shall be materiall to pꝛoue the Felony) in writing within two daies after: and to take bond of all such as doe declare any thing (materiall to pꝛoue that offence) to appeare at the next generall Gaole deliuey, and to giue euidence there against the offendoꝝ, 2. & 3. Ph. & M. ca. 10.

Here

Here you may see (if I be not deceived) when the examination of a Felon began first to bee warranted amongst vs. For at the Common Law, *Nemo tenebatur prodere seipsum*, and then his fault was not to be wzing out of himselfe but rather to bee discovered by other meanes and men.

And here againe, am I iustly occasioned to draw the threed of my speech a good deale further, befoze I can conclude this part concerning the power of any one Justice of the Peace.

For whereas this Law requireth, that hee should not onely take the Examination of the fact, & bond of the Informers, but also that hee doe therewithall make choyse of such things as bee materiall to mooue the suspicion, or to proue the offence: It seemeth necessary to me, both to shew him the maner of y^e Examination and forme of the Bond, and withall to let him see, what things bee materiall to induce this Suspicion, & what sorts of Felonies there are wherewith he hath to deale, to the end that he may both discern them from other facts that carrie onely some resemblance of them: and also the better understand, when to commit to prison the party accused befoze him, and when hee shall not neede to trouble himselfe so farre with him.

And first, because some Justices of Peace, do Examination vse to take this Information (of the byringers) vpon Oath.

upon their oathes, and some others doe receive it without any oath at all: Let vs see, what is wont to be said on either side, that enery man may the better see what way to encline and follow.

They which make this Information, or Examination (for this Statute doth vse both the wordes indifferently) without any oath, do say, That if the makers of this Statute had meant that an oath should be taken, then would they haue expresse so much: euen as the Statutes for Bankrupts (34. H. 8. cap. 4. & 13. Elizab. cap. 7.) the Statute of Accomptants (5 Ric. 2. cap. 13.) the Statute of Labourers (2. H. 5. cap. 4.) and the Statute of chusing Knights of the Parliament (8. H. 6. cap. 7.) haue done befoze: in all which, and some other Statutes, examination upon oath is giuen by expresse and plaine wordes.

But they on the contrary side doe strongly defend their exacting of an oath, by the example of the Iustice of the Higher Courts: and doe alleadge, That whereas the Statute, (5. H. 4. cap. 8.) did ordaine (without any mention of oath) that in action of Debt, upon the arrerages of an account, the Iustices should haue power to examine the Attourneyes, and others: the Iustices of the Bench doe vse in that case to minister an oath vnto the Examined, as it appeareth, (19. Hen. 6. 4. & 35. H. 6. 5.)

The

The like (say they) is daily done & practised in all the examinations of Summoners, Viewers, Sherifes, Clerkes, and other Officers, that do happen in the higher Courts at Westminster. And *W. Brooke* (tit. Examination 32.) is of the opinion, that every examination is to be handled upon Oath. And therefore (belike) the Statute (2. E. 6. c. 13.) giuing power to the Ordinary to examine a man for his personall tithe, excepteth an oath, as though otherwise he might haue required it of him.

Besides all this, they adde for reason, that if these Informers be examined upon oath, then although it should happen them to die before the prisoner haue his triall, yet may their information be giuen in Euidence, as a matter of good credit: whereas otherwise, it would be of little or no weight at all, and thereby offendors should the more easily escape.

To this later opinion I my selfe am ready to subscribe, as wel because I haue heard some Iustices of Assise deliuer their minds accordingly, as also for that I haue found by experience, that (without such an oath) many Informers will speake coldly against a felon before the face of the Iustice, hauing (belike) first made their bargain with the offendor (or his friends) before that the Iustice did heare of the cause.

The Bond (spoken of in this Statute, and in some other) seemeth to be meant of a Recognisance acknowledged vnto the Kings vse, and

The taking
of the bond.

condi-

conditioned for the performance of that which the statute appointeth. For (as before hath bin said) even as in the cases of surety of the peace, and Good Abearing, the Justice of the Peace taketh usually a Recognisance, and is warranted so to do, being made a Judge of Record as touching matters of the Peace, though he hath no full words for it either in any statute, or in the Commission: So, being authorised by this statute to deale in this matter, he may bee well said to have therein implied (by good Congruence) a power to record the acknowledging of a summe of money, forfeitable to the R. for not performing the condition of the same.

The partie therefore that informeth against the Prisoner, may be thus bound in a single Recognisance.

Kanc.

Memorandum quod tertio die Aprilis, anno regni Domini nostri Iacobi, Dei gratia, &c. D. E. de Brasted, in comitatu predicto yeoman, personaliter coram me Tho. Potter, uno Iusticiariorum &c. ad pacem &c. assignatorum constitutus, apud Brasted pred. recognovit se debere dict. Dom. Regi decem libras bone & legalis monete Angl. de bonis & catallis, terris & tenementis suis fieri & levare ad opus dicti domini Regis heredum & successorum suorum, si defecerit in conditione indorsata.

Th. P.

And

And with such a Condition.

THE Condition of this Recognisance is such : whereas one A. B. late of C. Laborer, was this present day brought before the said Iustice by the aboue bound D. E. and was by him charged with the felonious taking of xx. sheepe of him the said D. and thereupon was sent by the said Iustice to the Kings Maiesties Gaole : If therefore hee the said D. shall and will at the next generall Gaole deliury (to bee holden in the said Countie) preferre or cause to be framed and preferred, one bill of Inditement of the said Felony, against the said A. B. and shall and will then also giue Euidence there concerning the same, as well to the Iurors that shall then make enquiry of the said Felony, as also to them that shall passe vpon the Tryall of the sayd A. B. That then &c. Or else &c.

Touching the points that may ingender suspicion, I need not to say much, knowing that *The causes of suspicion,* I speake to men of discretion and wisdom, to whom *Omne mendacium est pellucidum :* And yet fixing that, *Initia debent ab arte proficisci, quanquam cetera facile comparabit exercitatio :* I take it not vnserpiceable to insert heere, such a Briefe (or minute) thereof as I haue collected out of Cicero, and others, whereunto all the rest (which the wit of man may inuent) will easily be referred.

Sermo

*Sermo Iosue, ad
Achen.*

*Fili mi, da gloriam Domi-
no Deo Israel, confitete
atq; iudice a nobis quid se-
ceris, ne abscondas.*
Lib. Ios. cap. 7.

1 Parents: as if they were wicked, and given to
the same kinde of Fault.
2 Sex: for some offences are more commonly
found in one Sex, and some in the other.

Whether idle, & with-
out honest occupations:
or riotously in diet, play
apparel: whether brow-
ling, quarrellous, light
fingered, or bloudy han-
ded, &c.

1 The
disposition
of the per-
son, by

3 Edu-
cation
in his
Childhood.
Youth.
Mans state.

1 Will to
doe the fact,
which is go-
thered by

2 The
cause indu-
cing him to
vndertake
it, which is
either

1. Prece-
dent, as his

The termina-
tion of an of-
fence, is a con-
sequental state

2 Power to commit the
act, which is to be con-
sidered, by his

1 Wit: subtiltie: courage of mind: meet to en-
able him.
2 Strength, or swiftness of body, to warrant him.
3 Countie: kindred: wealth: friends: office: to
cover him.

Timens being very early or late, which be fit for
if he will not abide the law

These are the
 1. Present,
 or instant,
 as the

Times being very early or late, which be fit for
 the doing of such that will not abide the light
 Space sufficient to performe the feat.
 Place, convenient & meett for the act as Wood,
 Dale, house, or other place of advantage
 Occasion, rightly taken, as which being omitted, the fact could not follow.
 Comparison, as that none but hee, or none so commodiously as hee, could
 commit the fact.
 Hope, to have it concealed by these advantages, or to escape with it.

3 Subse-
 quent, as

Common, voice and fame, against him, that he did the offence,
 Witnesses that prove it, either probably, or necessarily.
 Signes, which discover him: as by having blood, or the goods about him: his
 flying away: his blushing, or change of countenance: his being in company
 with other offenders: his offer of composition: the measure of his foule the
 bleeding of the dead body, &c.
 Confession, as his owne doubtfull, or inconstant speaking: his repugnance
 with others speech, &c.

2

The Mittimus of the Prisoner, after
his Examination taken, may
stand thus.

Kent.

IOHAN SCOT Knight, one of the Iustices, &c. to the Keeper of his Maiesties gaole at Maidstone in the said Countie, &c. greeting. I send you heereewithall the bodie of A. B. late of C. Labourer, brought before me this present day, and charged with the felonious taking of twentie sheep, which also he hath confessed vpon his examination before me. And therefore these are (on the behalfe of our said Soueraigne Lord) to commaund you, that immediately you receiue the said A. B. and him safely keepe in your said Gaole, vntill that hee shall be thence deliuered by due order of his Maiesties lawes. Heereof sayle you not, as you will answer for your contempt at your owne perill. Ye ouen &c.

*The division
and discourse
of Felonies.*

The Examination of the prisoner, the bonds of the accusers, and the notes of suspicion, thus bewrayed, It followeth y I enter into the division and discourse of the felonies themselves. For the better understanding whereof, I will here deliuer (so shortly as I can) such helpes as haue come to my hands, for the knowledge of all manner of Manslaughters, and other Felonies

nies that either were at the Common Law, or have beene since declared by whatsoeuer Statutes.

But before I step any further herein, I am to pray pardon of the Reader, if I shal neither set Manslaughter before Felony, as this statute doth: nor shall vse either of both those words in so narrow a signification, and meaning, as commonly other men doe take them. For howsoeuer the course of these offences may fall out to him that shall consider how much the one of them exceedeth the other in grauitie & degrees of hainous offences: yet to mee, that am desirous to follow some order and methode of discourse, the generall must alwayes goe before the particular: and therefore, refusing the common vse of the words at this day, I wil (for order sake) take them in their owne moze ancient and proper significations, vsing felonies for the *Genus* (or general) to all those other fell, and hainous offences, that our law (for the most part) doth punish by the paines of death: and vsing Manslaughter, as a sort of Felony, that comprehendeth vnder it all maner of felonious Homicide whatsoeuer.

And yet, to prooue that I doe not heerein swarne, either from the naturall signification of the words themselves, or from the auncient vse and acceptation of them, I say, that first those hainous offences, are called Felonies, because they be committed *Felles animo*, with a fell,

The right vse
of the words,
Manslaughter
and Felony.

fell, furious, and mischievous minds and intent.

And, that before the Statute, (13.R. 2.ca.1.) a pardon of all Felonies, was available both for Murders, and for some Treasons also: as may appeare, Libr. Alf. 22. plac. 49. 1. Edward. 3. 24. Stanford 102. & Comment. 502. And that the Statute of Marlebridge (cap. 25.) speaketh plainly herein, saying: *Locum habeat murdrum de interfectis per feloniam tantum.*

Again, as touching Manslaughter, that word (as every man may see) doth most aptly, and doth significantly, render unto us, the Latine *Homicidium*: which word Sp. Bracton, and Sp. Stanford doe rightly use, as the general, as well to Murder as to the rest: howsoever unskillful men will needes restraine it (now a dayes) to Manslaughter by Chaunce-medley alone.

Neither doe I doubt, but that this present Statute, when he saith, Manslaughter and other Felony, doth thereby make Manslaughter a sort of Felony, (for so the word other doth imply) and doth also therewithall comprehend Murder vnderneath it: seeing it cannot be thought: but that this Statute requireth examination, as well (if not more) in the case of Murder, as it doeth in the other lesse hatefull Homicides.

This examination thus prepared, I wil now aduen-

adventure (under the name of felonie) to runne
through all the sorts of manslaughter and fe-
lonies within the meaning of this Statute, ac-
cording to the order of mine owne divi-
sion : which (for the more light)
I haue bestowed in this
protest (or table)
following.

P

What

The Diminutions of those Felonies, wherein Iustices of the Peace are authorized.

1st Treason.2^d The King's Felonies only.3^d Treble,
and concerning
either4th The common wealth.

Entrailing of Forcible person, 1. Elc. cap. 1.

Abjuring from natural obedience, 21. Elc. cap. 10.

Instruments of Reconciliation, 33. Elc. 20.

Giving over sea to serve a Forcible person without taking the oath, 17. Elc. 4.

Enterselling habitments of warre, or victuals, 31. Elc. 4.

Censuring and witchcraft, 1. Forc. 22.

Buggerie with a beast, 21. H. 8. c. 6.

Receiving of Infants and Summarie priests, 27. Elc. 20.

Seditious Betters refusing to abjure, or returning after 14. 35. Elc. 3. and

so of popish Recusants, 31. Elc. 5.

Rebellious combinations, 1. Mar. T. 1. c. 12.

Abolishing of Gold and Silver, 5. H. 4. c. 4.

Conspiring Masses to congregates in Churches, 3. H. 4. c. 1.

Disparaging of Soldiers, or Mariners, 17. H. 6. c. 19. 6. c.

Transporting of Sheepe beyond the sea, 3. Elc. 3. c. 6.

Infested with the plague going abroad, 1. Forc. 31.

Egyptians, and their counterfeit, 1. 2. P. & M. 4. 3. Elc. cap.

Rogues, wandering Soldiers, Mariners, &c. 39. Elc. 4. 17. 1. Aug. 20.

Breach of prison, 17. Forc. 1. 2. c. 2.

Bucklers and Dabblers, and the men called Blacken, 3. H. 3. Stat. 2. c. 11.

Purveyors, 1. E. 3. cap. 2.

Gentlemen compelling their prisoners, 1. 2. E. 3. c. 20.

Felonies ven-
erably or in-
guiltably per-
petrated

The

The Diminution of Treason

Quakers compelling their preachers, to be silent.

THE

before
the
place of
the
P. 400,
the in-
ter.

1. Pri-
vate
touch-
ing,
miles

Taking away the life thereof which is called *Homicide*, whereof I thought all the sort be not *Felons*, yes (for a full view) the whole is divided into.

by and then by

Abusing it,
without death,
as by.

Cutting out of tongues,
J.H. & S.

Wm. H. B.

Taking Care of Women
L.H.C.A.

Carnall knowledge of an Infant under Fevers

your, J. H. Elrod,
Marrying a second time

living. J. J. J. J. J.

ing of a booth or tent,

person.

Patent

Great

1

1

**But the
Felonies**

By publike felonies, I doe here in this table mean those offences which do not so much touch any particular (or private) person, as the vniuersall Common wealth it selfe: either in the head thereof (which is the King) or in the body which is framed of all the Subjects within the Realme: Betwene the which twaine, there is such a neere sympathy and mutuall feeling, that whensoever the one is offended, the other is also hurt, and doth suffer with it.

**Felonies
against the
King.**

Of these (which immediatly do concerne the King and the Estate) some be called Treasons, and other be named Felonies, after the vsuall vnderstanding of that word. And albeit, the Iustices of Peace may deale with all traytors, as with persons that offend against the Peace of the King and of the Land: yet, not in the verie point of their offence, sauing that in some they haue a speciall power to enquire of them, and to receiue indictments onely.

Of this later sort, is the treason of extolling sozein power, 1 El. ca. 1. the treason of absolving (or withdrawing) his Maiesties Subjects from their naturall obedience, 23. Eliz. cap. 1. and the treason of putting in vnder any instrument of reconciliation, gotten from the See of Rome, 23. El. c. 2.

Those Felonies concerning the King, are thus: The Felonie of going out of the Realme to serue any sozeraine Prince or State, not being taken the Oath, and entred into bond

the Spoile, according to 3. I. cap. 4. And the
embezzelling of any his habiliments of warre
or of any Victuals provided for his Souldi-
ers, Mariners, Gunners, or Disasters, 3. I. Eliz.
cap. 4.

Whitherto of Felonies concerning the head
of the Common wealth: now follow those that
are against the body of the same: Contumacious
of wicked spirits and witchcrafts, against the
Law of God and the statute 1. Iac. c. 12. The
line of Buggerie committed with a Beast, a-
gainst God, Nature, and the Law, 25. H. 8. c. 6.
Recetuing of Jesuits, or Seminary priests, con-
trarie to the statute 27. El. c. 1. The refusall of
seditions Sectaries, and of Popish Recusants
to abiure the Realme, and their refusall after
abjuration made against the statutes 35. El. c. 1
& 1. Rebellious assemblies against the Law,
1. M. Parl. 1. cap. 12. Practising in the Art of
Multiplication of Gold or Silver, condemned
by the Act, 5. H. 4. ca. 4. The causing of Parsons
to congregate themselves in Chapiters, restrai-
ned by a speciall Law, 3. H. 6. c. 1. The depar-
ting of Souldiours, Mariners, or Gunners
from their Captains, prohibited by the statutes
18. H. 6. c. 19. 2. & 3. E. 6. c. 2. 4. & 5. P. & M. c. 3.
& Elizab. cap. 5. The second offence of trans-
porting Sheepe beyond the Seas against the
Law, 8. Eliz. cap. 3. The wilfull going abroad
and conversing in companie of persons infected
with the Plague, having infectious Sores
upon

Felonies
against the
Common
wealth.
Contumacious

Buggerie

Jesuits.

Sectaries.
Recusant.

Rebellious
assemblies.

Multipli-
cation.
Parsons

Souldiours.

Shēpē;

Plague.

**Egyptians.
Rogues.**

**Souldiers.
Mariners.**

upon them incurred, contrary to commaund-
ment prohibited by the statute 1. Jac. ca. 3. The
disguising life of the Egyptians: the returning
of a dangerous Rogue that was banished: and
wandring of such a Rogue, after he hath bene
banded with an hot Iron, and placed in labor:
and the idle wandring of Souldiers & Mariners,
together with the forging of any Testimonial,
or carrying & same wht they know it to be for-
ged, forbidden by the Acts 1. & 2. Phi. & Ma. ca.
4. 5. Eli. cap. 20. 39. Eli. ca. 4. & 17. & 1. Jac. ca. 7.
All these (I say) be Publicke Felonies, whereby
the vniuersall Common-wealth doth (or may)
receiue detriment, and so; which hardly any
one singular person can commence his priuate
sute or action.

**Breach of
prison.**

And of like condition to these, be those Fel-
nies that do grow by the breaking of imprison-
ment for any Felony: the which also are groun-
ded chiefly upon the Statute of 1. E. 2. *De fra-
gentibus prisonam*, and are so restrained to Felo-
nic by it, whereas (at the common law) he was
generally a Felon that brake the prison, al-
though the cause were no Felonic for which he
was committed thither.

For, Imprisonment is the putting of a person
from his owne libertie, into the custodie of the
Law, to answer to that which is objected: and
therefore to brake the prison, is to flee from
the triall of the law, and is worthily aduinged
a Publicke Felony.

But

Out of his owne fact, there groweth sometimes a treble offence and felony: namely, one in the prisoner himselfe, which is most properly called the breach of prison: another in him that helpeth the prisoner to get away which is commonly termed Rescuffe: and a third, in the officer or partie whatsoever, by whose willfull default he is suffered to go, and that is named an Escape 10.E.4.17. Rescuffe.

The breach of prison, and Rescuffs do many times concurre, and now and then an escape both appears without the companie of any of them both.

Now, (as to this purpose) it is called a Breach of prison, whether it be an escape, out of the gaole, or out of the stocks, or out of the possession of any person that hath the keeping of the partie arrested for Felonie, although hee cannot thereof indited before, Cor. Fitz. 158. Colect. Dier fol. 99. & 312: and so is it, if a man take the sanctuarie of the Church for a felony, and doe then flee from it: for he is there in the custodie of the town, Cor. Fitz. 190. But if the Gaoler or any other that hath a felon under arrest do willingly suffer him for to goe at large then resteth the felony in them only, and not in the prisoner: who cannot be said to breake the prison, out of which he is freely dismissed. Stanford upon the case Cor. Fitz. 140.:

On the other side, if a stranger doe either breake the prison, and let out one that is there

for felony, or doe receive such an one as is under arrest for felony, then is it felonie as well in the stranger, as in the prisoner himselfe, Coron. Firz. 47. 134. & 158. Howbeit, if that stranger shall but offer disturbance onely before the arrest, so that the arrest is hindered thereby, then will it prove no felony in him: because the other was no more a prisoner, then if he were attached only, & were not yet brought under hand, Coron. Firz. 333. & Stanford 31. & lib. All. pl. against the opinion of W. Firz. in his Justice of Peace.

And for the same reason, if a man receives felon, knowing the felonie, and then do willingly suffer him to escape, this sufferance to escape is no felony of himselfe, howsoever the receiving of him may make him an Accessorie, 9. H. 4. 1. & Stan. 33.

Neither is it Felonie for a man willingly to suffer one to escape that is arrested for an act, which was not then felony, but by matter consequent fell out so to be: As, if John strike Richard, for which the Constable arresteth him, and afterward letteth goe, and then Richard dyeth of the blow within the yeres, Comment. 401. 11. H. 4. 11. much lesse, to suffer one to escape, that is arrested for killing of an other & defendendo, or by misfortune, or for Petit larcenie, or that hath his iudgement to be delivered, paying his fines: because none of these do amount to felonie.

But now to pursue those Publike Felonies **Wony.**
that doe yet remaine. These Felonies of
Gally halfe-pence, Suskins, and Dodkins, 3. H. 5
Stat. 1. and of Blank-monies, 1. H. 6. cap. 9.
whereof their is little (or none) vse at this day
amongst vs, may stand in this Register of pub-
like Felonies. And albeit the imbezelling of **Records**
any Record, doth immediately touch some one
particular mans interest: yet knowing that
when it is once a record, enerie other man hath
accesse vnto it, and may vse the helpe of it, I
would reckon that offence (adjudged felony by
the statute 8. H. 6. c. 12.) amongst the rest of pub-
like Felonies, if the Iustices of Peace had to do
with it.

Where may be moze doubt of the felonies by **Wornerys.**
Wornerys, abusing their office against the sta-
tutes, 4. E. 3. cap. 3. 25. E. 3. c. 15. 36. E. 3. c. 4.
36. E. 3. cap. 5. & 6. & 7. R. 1. c. 8. and likewise of
those Gaolers that (by hard and cruell custody) **Gaolers**
compell their Prisoners to become Approuers,
against the Act 14. E. 3. c. 10. because in all these
some particular person is chiefly pinched:
but yet, soasmuch as they doe it by colour of
their offices (which are publike) I can be con-
sented to range them amongst publike felonies
also.

From these Common and farre spreading **Wyners**
offences, I must fall to those that I call **Wyners**
private, in respect that particular men are imme-
diately (and almost onely) wronged by them,
saying

saving that the Law doth take some avengement of the crime, lest impunity in the offenders should embolden others to commit the like.

These (as appeareth in the Table before) doe either runne to the bodie alone, or to the bodie and goods together, or else to the goods only.

Again, seeing that the bodie is either touched in the point of life, or by other violent or fleshly abuse that bringeth not death, I am first, to intreat of Homicide, which I called Manslaughter, and therein to note some few things that bee common thereto, and afterwards to draw it into sundrie sorts, or kinds also.

Homicide.

In all these sorts of voluntarie Manslaughter, being exempted from the fault of Felonie (as that is, which we say to bee done *Se defendendo*) there is no person to bee punished, to whom the law hath denied a will, or minde to doe the harme: As a mad man: he that is borne both deafe, and dumbe: nor an Infant under the age of 12. yeares, unlesse it may by some evident token appeare, that he had understanding of good and euill: for then, in him *Malitia supplebit etatem*: and to these (by the opinion of P. Bracton) you may adde the Lunatique during that disease for a fourth, *quem tuetur* (as he saith) *consilij inopia*, 3. H. 7. 1. 21. H. 7. 31. Corone Fitz. 193. & lib. Ass. 26. pl. 27.

¶ 202.

Sporeouer, to hurt a woman great with child, whereby the child either dieth within her bodie, or shortly after that she is deliuered of it : or to strike any person, so, as he dieth not thereof, till the yeare and day be fully past, wil not wzap a man within the danger of these Felonious manslaughter : li. Ass. 3. pl. 2. 1. E. 3. c. 4. 3. H. 7. c. 1. & Corohn Fit. 303. For in the former case, the child is not reckoned to be *in rerum natura*, until it be boyn, though M. Bracton fol. 121. taketh it to be Homicide, if the blow bee giuen *Postquam puerperium animam fuerit* : And in the later case, it cannot reasonably be alleaged, that the man died of that blow, which he retained a whole yeare before.

Lastly, if any person shall be brought before a Iustice of Peace, and charged with any of these Homicides (except that which is done in the orderly execution of a iudgement) it shall be his part (as I thinke) to commit him to prison, or at the least (if the cause will so suffer) to ioine with some other Iustice in the Bailemēt of him : to the end, that the partie may be discharged by arraignment and triall : without the which (or other finding of the truth before the Coroner, or otherwise) I see not how the Iustice of Peace may safely dismiss him. And for this purpose, I refer you to the Statute of Gloucester ca. 9. and Corone Fitz. 388.

But now to the sorts of Homicide : Not euery Manslaughter (saith M. Bracton) deserueth

Homicide
commanded
by the Law.

meth punishment: for it may be done for Justice sake, and then it is no fault at all, so it be done sincerely, and without delight in shedding of blood.

And therefore, neither the Judge that by order of Justice condemneth the guilty man to death: nor the officer that orderly executeth that Judgement according to his warrant: is guilty of any offence for which upon examination he ought to be committed to prison, seeing they haue done no more then Law commaunded.

Whom the law
justified by law.

Next vnto this, is the case of those whom Law alloweth to slay a man, and holdeth them unpunishable for it: whether it be upon a certaine necessitie for the aduancement of Justice, or for the defence of his house, or goods, or for the more terror against offenders. And therefore the Sherife, Bailife, or any other, that hath a warrant to arrest a man indicted of Felonie, may iustifie the killing of him, if otherwise they cannot take him, 22.lib. Ass.pl. 55. and so may any other man, that followeth Felons upon the Way and Cry raysed, if they will not yeld themselves, but stand at defence or fly away: by the opinion of Thorpe cit. Corone Fic. 261. and so it is also, if a man that is arrested for Felonie, doe (as he is in carrying to the Gaole) offer resistance, and fly: for then those that haue the conduction of him, may without blame kill, if they cannot otherwise reconer him,

him, Corone Fitz. 288. & 328.

And if the Justice of Peace come to arrest riotors, and they resist, whereby one of the riotors is slaine by any of the Justices, or their servants, or by any other comming in their aid, that is justifiable, and allowed by law: because in this, and the former cases, the killing proceedeth upon a necessity for the execution of justice which otherwise should be left undone.

Of like account is it, when a Gaoler doth say any of his unruly prisoners that shall assault him, lib. Ass. 22. pl. 55. But whether this rule will hold, when the arrest is only for debt, or such like, it is good to be advised.

If the Justice of the Peace, or any other (lawfully authorized) doe assemble any number of men for the suppressing of any persons unlawfully assembled, contrarie to the Statute (1. M. Parl. 2. cap. 12.) and be driven to set upon them, and thereby any of the offenders be slain this slaughter is warranted, both in the Justices themselves, and for every other of their company, by the same Statute.

And if any Forester, Parker, or Warrenner or such as be in their company for their aid (after Hue and Cry made upon offenders within their charge to yield themselves, which neverthelesse will make resistance, or fly) do without former malice kill any of them, they are neither to be imprisoned, nor to forfeit any thing for it, *Statute Malefactor in parcho. 8. E. 1.* So if any do attempt

attempt to robbe, or murder any person, in his dwelling house, or in (or nigh) any common high way, cart way, horse way, or foot way, or feloniously to break into his dwelling house in the night time: and in this attempt the party or his servants then with him, doe kill any of the misdoers, he or they shal forfeit nothing thereby 24 H. 8. cap. 5. and so (in effect) was the common Law befoze that Statute, as may appeare 26. lib. Ass. pl. 32. and Coron. Fitz. 330. 305. & 261. and so also was the Roman Law of the twelue Tables: *Nocturnus fur quoquo modo, diurnus autem si se telo defenderis, impune occiditur.* For of necessitie men must either defend themselves, or be oppressed by these and such other wrongfull innovations.

And therefore, if there be malice betwixene A. and B. so as they haue fought together: and afterward they meet sodainely in the high way or in the street of a towne or citie, & A. sheweth his weapon, & challengeth B. to fight, B. saith that he will not haue to do with him, and goeth to the wall from him, and thereof taketh witness of the standers by: and yet notwithstanding A. followeth, and striketh at B. and then B. striketh againe, and killeth him: in this case it was aduouched (15. Eliz. Reg.) that B. shal goe quit by this Statute, without any forfeiture. Report Cromp. We come now to manslaughter upon premeditate malice, whether it bee executed vpon others, or vpon the partie him.

Murder.

himselfe. That which is generally committed upon any other, betwene whom and the slayer there is no speciall ligeance (or feoffment) is now called Murder; and the other petit Treason.

In the old time, euery killing of one man by another, was (of the effect) called murder, because death ensued of it. For (as Postellus noteth) of the Hebrew word *Moth*, came the Latine *Mors*, and thereof our Elders (the Sarrons) called it *Mord*, and *Mord* or as we now sound it.

Afterward (about the time of H. Bracton) murder was restrained to a secret killing only: and therefore he in the definition of Murder, saith, that it is *occulta occisio*, &c. with whom Britton agreeth also. But since the Statute (14. E. 4 cap. 4. by which the presentment of Englishmen was taken away) Murder is taken in a middle degree, neither so largely as it first was, nor so narrowly as it afterward became to bee. For Murder is now construed to bee, where one man of malice premeditated, killeth another feloniously, that liueth within the Realme, vnder the protection of the King, whether it be openly or priuily, and whether the partie slaine bee English, or Alien. Wherein it is carefully to be observed, that the words (of malice premeditated) doe make the true difference betwene this and the other voluntarie Manslaughters: so that to make the offence Murder, it is of necessity

restitue, that there be a precedent malice, & the same either apparent, and betrayed by the parties himselfe, or else implied and supplied by the understanding of the Law.

And therefore, if two persons doe mutually beare malice one against the other, and meeting (by chance) they agree to goe into the field to fight together, and thereby the one of them is slaine, this is manifestly murder in the other: Report Dalison.

So, if two (of malice forethought) lie in wait for the one to kill the other, and thereby the one of them doth kill the other, this is murder in the killer, without respecting which of them gave the first blow, by the opinion of Sir Robert Caelin late chiefe Justice, as Crompeon reporteth.

And if a man of premeditate malice, striketh at an other, and after in the sight flieth to a wall (beyond which he cannot goe) the other pursueth him to the wall, and is there slaine by him that began the affray: this seemeth to be murder, notwithstanding his flying to the wall, by the opinion of Caelin chiefe Justice, and others, for he slew the man in the same malice, wherein he did assault him, Report Crompeon.

And if John and William do fight together (by agreement) upon their former malice, and John woundeth William: and after ward (they meet again upon the sobaine, & falling to fight) William slayeth John: this is murder in him,

by

by the opinion of Catlin chiefe Justice, as Crompton reporteth.

Now as this is meant, where the former malice is apparant: So, many times the Law doth (by the sequell) iudge of that malice which lurked before within the partie, and doth accordingly make imputation of it. And therefore, if one doe (suddenly and without any outward shew of present quarrell or offence) draw his weapon, and therewithall kill an other that standeth by him: the Law iudgeth it to haue proceeded of former malice meditated within his owne minde, howsoever it bee kept secret from the sight of other men, Dalison. And accordingly hath the statute 1. Jac. Reg. cap. 8. well provided, that the partie that slabbeth or slayeth any person (not hauing a weapon drawn, or that hath not then first stricken him) so as he die thereof within six moneths after, shall suffer death as a wilfull murderer.

The auncient Law that measured the fault, not by the event, but by the intent, will, and purpose of the offender, took it for felony (saith 4p. Scamf. fol. 16. out of the booke 3. E. 3.) in the owner of a beast that killed a man, if so be that the owner did know it to be accustomed to doe harme, & did not tie it vp, or otherwise restrain it: but the case (3. E. 3. which you may see Coro. Fitz. 3. 1.) goeth not so far (as I think) but only saith, that if the owner were alive, he should be arraigned of the death, and amerced towards the

Q

King

King. Again, Britton (fol. 14.) hath the case, that if one which is not a Physician or Chirurgion, will take vpon him to cure a sick or wounded man, which dyeth vnder his hand, it is felonie: and Thorp (43. E. 3. 33.) saith that he knowe one to be indicted accordingly: But the statute (34. H. 8. cap. 8.) leaueth so great a libertie of such practise to vnskilful persons, that it wil be hard now to make any felony in such a case. Now be it if any of these two latter offences should be iudged to felonie, then I see not but that the same must be accounted Murder, in respect either of the bold presumption, or of the will to doe harme, which both amount to malice.

And it hath bene adiudged murder, when a man hath iudged his weapon, and killed either a knowne officer, or one that had and shewes sufficient warrant to arrest him for debt only.

So if a harlot will take the child whereof she is newly deliuered, and coney it with leanes, and let it lie abroad, whereby vermine destroyeth it: and so likewise, if the sonne will take his sick father against his will out of his house, and carie him in the cold aire to an other place, whereof he dyeth. Fitz. Endicment 3. or if the same officer will behead him that is adiudged to be hanged: or if a private man will kill him without any warrant, 35. H. 6. 58. & 27. lib. Ass. pl. 41. or if a Gaoler kill his prisoner by ouer hard keeping, Britton fol. 28.

Again

Againe, it is taken for a rule (by *W. Brooke* 4. & 5. P. & M.) that wheresoeuer a man goeth about an unlawfull act, as to beat a man, or to dispossesse him of his lands &c. and doe (in that attempt) kill him, it is murder: because the Law presupposeth that hee carryeth that malicious minde with him that hee will atchieue his purpose though it be with the death of him against whom he is directed. And therefore if a thiefe do kill a man whom he neuer saw before, & whom he intended to robbe onely, it is Murder in the iudgement of Law, which implieth a former malicious disposition in him rather to kill the man, then not to haue his money from him, Comment. 474.

And if a man command his seruant to beat an other man, which doth it in his presence, and the partie dyeth thereof, it is murder in them both, *Ibidem* 475.

It appeareth in *W. Dalrymple's Report* (4 & 5. P. & M.) that Precedent was shewed to the Justices, that whereas a man entred into another mans orchard of his own head, and there tooke peares from a tree, and in the doing killed the owner that rebuked him, it was adiudged murder, and he was hanged for it. And of like sort is it, if Rioters, or such as be otherwise unlawfully assembled, doe kill any of those that come in aid of the Sheriffe or Justice of the peace, for the redressing of them.

Furthermoze, the Law (not thus contented) both many times extend this murthering malice towards other persons then the offender may seeme to bend it : yea, and to punish it in some that haue a shew to be verie farre from it. And therefore, if a man (of his former malice against one) doe shote at him, and thereby killeth another, with whom he was not offended, yet is he a murtherer, for the mind that he bare to murder him, against whom hee dyed his arrow, Comment. 474. So if two fight vpon premeditate malice, and the one of them slayeth the servant of the other that fighteth in defence of his master, he is guiltie of Murder : and yet he had no former malice against the servant, Comment. 101.

And if two fight vpon malice soe thought, and in there fight a straunger is killed that laboureth to depart them, it is Murder in him that killeth him, if it may be discerned : and if not, then in them both, Cor. Fitz. 262. & Dalsy. & Collect. Dyer 228.

But (to goe further) the husband meaning to be rid of his wife, offereth her a poysoned apple to eat, & she (not seeing the danger) giveth part thereof to her little daughter that standeth by in the presence of the husband, who (to avoid the suspicion) suffereth her to eat thereof, and she dyeth : this was iudged Murder in the husband, for his wicked intent against his wife : and yet the case was, that hee loved his daughter.

daughter dearely. Comment. 474. & Star
1.E.6.cap.12. by which all wilfull killing by
poisoning, is aduinged Murder of malice pre-
pensed.

So if a man lie in wait by the way to kill
A. and (mistaking the man) he killeth B. as
he commeth the same way, this is Murder,
Ibidem.

Againe, all such as bee present, (and ai-
ding, abetting, or comforting him that com-
mitteth a Murder) bee principall Murderers
in the eye of the Lawe, as well as he is by
doing the deed, though they strike neuer a
stroke therein: for the Lawe owneeth the
stroke of the Murderer to bee the stroke of
them all that bee present, and doe assist him, 4.
H.7.18. & Comment. 100.

And therefore, if Hunters doe enter into
a Parke, and doe agree to kill any man that
shall resist them, and one of them (being out
of the sight of his fellowes) doth runne upon
the Keeper, and killeth him: this will make
all the rest of the Hunters to bee principall
Murderers, as well as him that gaue the dead-
ly blow, Dalison.

And (to giue one example of both these last
Rules) the case was (4. & 5. Phil. and Mar.)
that George (hauing conceined a displeasure a-
gainst Richard) assembled sundry persons, and
came in riotous sort to the house of Richard,

of purpose to fight with him, but not with the minde to kill any man: and using there some quarrellous speeches together, a kinswoman to them both travelled indifferently to appease them, and was suddenly stricken on the head with a stone that was throwne over a wall by one of the servants of George, whereof she afterwards died. And (by the opinion of all the Iustices, and others) it was declared, upon long advise, that if she came on the part of Richard, and not as a stranger to the matter, then this killing of her was Murder in George and in all his complices: but if she came as a stranger, and indifferent to both the parties, yet by the better opinion it was thought to be Murder in George & all his companie, because they came with a malice against the person of Richard, and in the execution of that malice this death ensued. Report Dalyson: with which Sir James Dier in his Collections doth not altogether agree.

Petite treason.

Now followeth to speake of wilfull Manslaughter committed by treason which is a sort of Murder: and therefore, howsoever it exceed Murder in the gravity of the crime (as I said) yet in Method, and true order in handling, it must come after it, as being the lesse generall.

It is of two sorts, whereof the first is called high, in respect of the King which is the highest person: and thereof I shall not need to in-
treate further than I have spoken already.

The

The other is termed *petite*, in regard of the inferioritie of the persons against whom it is committed: and they be either Ecclesiasticall
 01 Lay: as is declared by the Statute 27.E.3.
 cap. 1. which is but an affirmation of the common Law.

So that if a Clarke doe maliciously kill his Prelate (01 superioer) to whom he oweth obedience: 01 a Wife, her Husband: 01 a servant the Master 01 Mistresse (who haue a ciuill Sovereigntie ouer them: this will be *Petite Treason*, lib. Ass. 12.pl. 30 & 23.pl. 49. Coron. Fitz. 383. 19.H.6.47. & 25.E.3. cap. 1.

And albeit there be a naturall obedience, due from the child to the Parent, wherby it might seeme that the wilfull and malicious Murder of the Parent by the hand of the child should as well be sorted in the range, of *Petite Treason* as the rest: yet by the opinion of Bromley chiefe Iustice: and Portman 1. Diar. (as Dalyson reporteth) it is not *Petite Treason* for the sonne to kill his Father 01 Mother, vnlesse he take meate, drinke, and apparell (01 wages of them, and do their businesse for it, as a seruant.

I knowe that the impzinted booke at large, 21.E.3. fol. 17. hath (*Mere*) shortly, and corruptlie written, for *Meistre*, which doo, and may deceiue some Reader: but Fitz. Coron. 447. and Statham also (which do abridge that case) haue it plainly *Mistres*, to take all doubt away from it.

But (to goe forward on our way) there is none other difference betweene the offence of Murder and petite Treason, but this onely, that Murder is moze generall, and may be executed against every stranger, whereas petite Treason is restrained to these narrow boundes of priuie; that I haue set downe befoze vnto you.

And therefore if the wife and a stranger do iointe in killing, or poisoning the husband: or a seruant and a stranger in destroying the Master or Mistresse of that seruant: this is petite Treason in the wife and seruant, and Murder in the strangers. And (by the way) that wife may for the poisoning either be touched with petite Treason at the common Law, or with Murder by the new statute, 1.E.5.ca.12. Dallyson. But if the wife and seruant do conspire to kill the husband, appointing the time and place thereto, and the seruant both execute the same accordingly in the absente of the wife: then is it petite Treason in them both: whereas if it had been done by a stranger, she should only haue been accessarie to it, as to a Murder, Collect. Dier. fol. 332. pl. 254. & pl. 103.

Now therefore (to auoid all needlesse multiplication of particular cases) I may leane you this one generall and short Rule for the better vnderstanding of al the rest of petite Treasons: namely, that whatsoever act will pzooue Murder between strangers, the same wil also make petite

perice Treason betwixt these forrenamed pri-
mies: Onely I will adde this one case, which
hath an extraordinary relation therein: the
servant (being departed out of service) killed
his late Master, for the malice which hee had
meditated against him during þe time that
he was his servant: and this was taken to be
perice Treason, lib. Aff. 33. pl. 7.

For an end of malicious killing, we are come
to him that killeth himselfe: is therfore called
Felo de se: for the Law saith that he doth it
Felonice, and with a mediate hatred against his
own life. And although this fault is neuer im-
puted (as I said) to him that is not *cōpos mentis*,
or (as we spake) *non sana memoria, de die in diem*:
yet if he haue *lucida intervalla*, his death shall
yeld that forfeiture which belongeth to þe fault
as *pp.* Stanford gathereth by the booke, *Coron.*
Firzher. 324. And so it was accounted of him,
that in a furious heate striketh another to the
ground, and withall draweth his dagger to kil
him, but whilest þe other that lieth on þe ground
draweth his weapon, & holdeth it before him,
he in hast to kil þe other, falleth vpon þe weapon
and is slaine himselfe: For the booke 44. E. 3.
44.) adiudgeth that he is *Felo de se*, & that the
other shall forfeit nothing for it: But *pp.* Stan-
ford (fol. 16.) taketh it for Chancemedley, and
that he (in a manner) killeth himselfe.

There do yet remaine two sort of voluntary Homicide, by
Homicide (but without proceeding malice) the Chancemedley
one is,

one commonly called Manslaughter, but more properly Homicide by Chance-medley: the other *Se defendendo*, that is, in his owne defence, the former is fitly named Chancemedley, for that in it men are medled (or commited) together by mere chance, & upon some broken for occasion, without any former malice or euill mind in one, to offer hurt to the person of the other. And in this offence, our law doth remit somewhat of her severity against the former faults: so that bearing (as it were) with the infirmities of mans nature, it seemeth no lesse to allow of manhood here, then to haue abhorred malice before. But I will exemplifie it by particular cases.

If the Master and his seruant fight against one, towards whom the Master hath malice, and telleth not his seruant thereof, and in that fight the seruant killeth the other man: how soener this be Murder in the Master, yet is it but Homicide by Chance-medley in the seruant, Commentar. 101. for he could not come to execute the malice of his Master whereto he was not made partie. So, if Richard and Robert fight together upon premeditate malice, and a stranger (hauing no malice) doth suddenly take the part of Richard, whereby Robert is slaine: this is but Chance-medley in the stranger, Commentar. 100.

And if two play at the Bucklers together without former malice, and the one slaieth the other

other, this is reputed to be done by Chance medley, if it be not before the King, and by his commandment, or Proclamation: and if it so be, then it is not punishable at all, as Iustice Fineux did hold, 11. H. 7. 23. But Sp. Brooke Coron 228. noteth, that the Iustices in the time of H. the 8. were of another opinion.

In some case, the killing of a man may ensue upon the maintenance of an inturionus act, and yet shal be deemed but Manslaughter by Chace medley, as thus: Robert entred forcibly with his companie into the house of Richard, and putteth out the wife and familie of Richard, the next night after Richard cometh with a great companie weaponed to the house, to recover his possession, and setteth an out-house thereof on fire: which when one espied that was in the principall house, he shot off a Gun, & therewith killed one of them that came with Richard: now upon this fact, Robert and his complices were arraigned of Homicide by Chance medley, 23. Eliz. Report Crompton: for it cannot be take to be a iustifiable killing, since the other side came not to rob, or kill, but to recover the possession of that which was in a forcible Riot taken from them: neither ought it to be construed Murder, when a man in the night season shooting at adventure to kill him that setteth a part of his house on fire, not knowing whether it be any man against whom he hath former malice: and least
of

of all can it be misadventure, seeing he that shot, had a purpose to hurt, or kill withall.

How plainly is it Manslaughter by chance-medley, where Henry was in possession of a house diners yeeres together, & William (pretending title to that house) cometh thither with a stranger, and he shooteth an arrow at Henry that was in the house, whereupon Henry dischargeth a Crossebow, & with an arrow thereof killeth the stranger: and so it was taken, 5. Elizabeth Report Crompton. For this was a sudden quarrel for the title to the house, without any unlawfull act proceeding on either side.

If two fight upon sudden offence, and without any precedent malice: and in the fight the one runneth away and the other goeth into the next house, and there catcheth a staffe, and pursueth and killeth him which fled: this was taken to bee but Manslaughter by Chance-medley, for the continuance of the fury, which was (at the first) without malice, and could not in so short time bee appeased 18. Elizabeth Report Crompton.

So, if the one of them had broken his sword in that fight, and had runne home to his house (not being farre distant) and fetched another weapon, & had therewith killed the other: so, if two have bene malice mutually, & be reconciled together, & then afterward they meet, & the one challengeth the other with words of mistreport, where

whersupon by agreement they goe immediatly together out of the house into the field to fight, and there the one slayeth the other : for, these & such like haue been taken to be manslaughter, onely : vntil the respite and distance of time haue bene such, that (by reasonable coniecture) the heat of the first anger might in that meane while haue been asswaged.

Richard and Robert fight together vpon former malice, and Richard woundeth Robert and so they depart for that time : afterward they meete vpon the sodaine and fight againe, and Richard killeth Robert : this (by the opinion of Catlin chiefe Justice) seemeth to bee by Chance medly : for that the former malice of Richard shall be thought to be appeased, by the hurt that he first did to Robert : & one the other side, if Robert had then killed Richard, it should be taken to bee murder, by the malice that Robert shall be thought to beare, for the hurt that he receiued, Report Crompton. Whitherto of the principall parties to the fight, now of others that happen to haue to doe therein.

If two fight by occasion of the euill words of a woman that is present, and the one killeth the other without any other malice : this is manslaughter by Chance medly in the woman as well as in the slayer himselfe, Corone Firz.

331. And if two fight vpon the sodaine without former displeasure, and a stranger commeth to part

part them, and is slaine by the one of them: this is Manslaughter by Chance medly, Corone Fitz. 180. So, if two fight vpon the sobaine without former malice, and the one of them breaketh his staffe: and a stander by which is not of their companie lendeth his staffe vnto him, with which hee killeth the other: this seemeth to be manslaughter by Chance medley in the stander by, Crompton.

Homicide,
in his owne
defence.

The last member of voluntarie Homicide, is where one man killeth an other in his owne defence: and this is neither felonie, or yet any iustificable killing: but euen as the Law of nature (as Cicero in his defence of Milo saith) doth allow vnto man, *Omnem bonam rationem expedienda salutis*: So the Lawes of men do sometime reach vnto him *gladium ad occidendum hominem*. And therefore, our Law also is a Sanctuarie for the life and lands of him that killeth an other in the necessitie of his owne defence, if hee cannot otherwise escape with his life from him.

But hee must know, that it is not all one to haue to do with a thiefe, or murderer, and with a loyall subiect. For albeit hee may boldly defend himselfe, his goods, or his house against a murderer or thiefe, on euen hand (as it were) and without any shrinking from him: yet if he be assailed by an other manner of man, he must flee so farre as hee may, and till hee be letted by some wall, hedge, ditch, presse of people, or other impediment;

impediments: that his necessitie of defence may be esteemed altogether great and inevitable, and yet shal he be committed til the time of his triall, and shall then lose his goods, and sake his pardon, for taking away the life of his fellowe subiect, Stat. Gloucest. cap. 9.

¶ Stamford fol. 15. describeth this manner of manslaughter by this example: A. striketh at B. with his weapon, and B. goeth from him so farre as hee may for the safetie of his life, so that hee commeth to a strait, beyond the which he cannot flie: A. still pursueth the assault, and then B. striketh also and killeth him, as holdeth out his weapon, whereupon A. runneth, and is slaine, this (saith he) is taken to be done, *Se defendendo*: whereas if B. had not so fled, but had stricken againe when A. strooke at him, and had thereby killed A. it had been felonie in him. But yet if A. had stricken at B. as before, and B. had stricken at him diuers blowes also (without giuing any deadlie wound) and then B. had fled to the strait, and being pursued still by A. had then killed A. this would be deemed to be done by B. in his owne defence: because (saith Stamford) it is sufficient for B. that he fled to the strait before hee had giuen to A. any deadly wound: and this he gathereth by the bookes li. A. 43. pl. 31. & Cor. Fitz. 184. 186. 187. 195. & 197. And it is not materiall in the first case, though there were former malice betwene A. and B. vnlesse B. do lie in wait for A. as doe
agrie

agree with him vpon the place for fight; or doe strike the first stroke at A. in all which cases the flying of B. afterward to the strait, will not auaille, or helpe him at all.

So, if a man do assault one in his house vpon a sodaine quarrell, and is thereby killed, this is taken to be don by the other in his own defence Coron Fitz. 304. for *in fugias ne prater casam*, as the Comicke, said: and our Law calleth a mans house his Castle, meaning that he may defend himselfe therein.

Homicide by
misadventure.

Having thus perused these kinds of Homicide, that are willingly (though not all alike willingly) committed and done, wee must come to that which happeneth cleane besides the will and purpose of him that doth it. And therefore according to the Law of God (which iudgeth him not worthy of death, that ignorantely killeth an other, but protecteth him in the Cities of refuge) our Law saneth vnto such a one his life and lands, but yet taketh his goods, and giveth him a pardon of course, without any speciall suit to the prince for it. So, that if a labourer doe worke with an are, and (in the fetching of his stroke) the head of the Are happen to flie off from the helme, and so kill one that standeth by: or if a man doe throw a stone at a bird, or shote an arrow at a foule, or at a mark, (without euill intent) and an other man be slaine thereby: or in the falling of a tree (he giueth loud warning, when the tree be ready

ready to fall, & yet it falleth vpon another man
 & standeth, or passeth by: And if a Tiler throw-
 eth downe the tiles from a house that he is to
 amend, & giueth warning therof, and another
 man commeth vnder, & is slaine with a stroke
 of a tile: And if a Scholemaster doe moderatly
 correct his scholler, and he dieth thereof. In all
 these, and the like cases, it is to be adiudged
 Manslaughter by misfortune: See our Marle-
 bridge cap. 25. 2. H. 4. 18. Coron Fitz. 302. 354
 & 398. and Comment. 19.

But here the distinction (taken by M. Bra-
 ton, and allowed by M. Scamford) in this case
 of Misadventure, is woorthie recitall. *Distinguen-
 dum est* (saith he) *utrum quis dederit operam rei
 licite an illicite: ut, si lapidem proiebat quis versus
 locum per quem homines consueverunt transire: val-
 dum insequitur equum, vel bouem, & aliquis alius
 ab equo vel boue percussus fuerit: hic imputabitur ei.
 At si magister causa disciplina discipulū verberauit
 vel si quis dum fœnum de curru deponebat, vel dum
 roborem incidebat, & adhibuit quam potuit diligẽ-
 tiam scilicet, respiciendo & proclamando, neque id
 nimis tarde aut dimisse, sed tempore congruo & ita
 clamose ut aliter fugere aut sibi praeuenire potuiss-
 et, non imputabitur ei.*

Thus haue the felonies appeared, that be
 all the body: it is now time to speake of those
 that abuse the bodie, without destruction of it.
 And here first offereth it selfe þ felony, which
 of set purpose, and premeditated malice) cutteth

Felonies tou-
 ching the body
 but without
 the death
 thereof.

Cut out
tongues.
Put out eyes.
Buggerie.
Taking a
way of womf.

Carnall
knowledge of
a childe vnder
the age of 10.
yeres.

Marrying
in the life of
the first hus-
band.

Rape.

out the tongues, or putteth out the eyes of any of the Kings subjects, 5.H.4. cap. 5. next the Anne of Buggerie that is committed with man against the order of mankind, 16.H.8. cap. 16. after that, the taking of any maid, widow, or wife, unlawfully, against her will, that hath lands, or tenements, goods or chattels, or is heire apparant to her ancesto (except it be by such as shall claime her for their ward or bondwoman) declared to be felonie (by the Statute 3.H.7. ca. 2.) if he that took her, do afterwards marry, or do defloure her: so was that statute construed, 3. & 4. Ph. & Ma. Report Dalylon: & by the same statute, they be principall felons y do procure or abet the felony, or that (knowing thereof) do receiue y same woman. Then followeth the felony of the carnall & unlawful abuse of the body of any woman (or rather a woman child) being vnder the age of 10. yeres the which, for resolution of the doubt that Dier noteth (14. El. Reg.) was declared to be felony (by the statute 18. Eliz. cap. 6.) whether she consent, or no, since the law iudgeth her unable to consent at her so tender age. Here likewise may haue place the marrying of a second husband or wife, the first being alive, which is felonie by the statute 1. Jac. 1.

And lastly, commeth the rauishing of a woman against her will, where she neither consented before, nor after: & the rauishing of a man by force, though shee consented after: which

was ordained to be felony (by the Statute of Westminster the 2. cap. 14.) tenne yeares after such time as the imprisonment of two yeares laid upon the offender (by Westminster 1. cap. 14.) was not found sufficient to repress the fault: which manner of punishment also, M. Stanford thinketh to haue bene rather a mitigation, then any increase of those paines, that the elder lawes did lay upon raniishment: and whereas that Statute of Westminster 2. in the first branch therof, bleseth the words thus: Raniish where she doth not assent, &c. and in the second branch thus: Raniisheth with force: I suppose that the word force is but declaratorie in that place, and set down to no other end but to signify, that all raniishment is accompanied with force; and therewith agreeth the Erymologie of the word Raniishment it selfe, which is deriued from the Latin *Rapere*, that is, to take, catch, or snatch, by force or violence.

But here, if the partie complaining to be raniished, shall thereby conceive a child, then Britton taketh it to be no Rape at all: because her conceptiō prometh her consent. So, if she were kept, & used by the raniisher, as his concubine, Master Bracton fol. 148. thinketh that he cannot be said to haue raniished her: yet, if she were an harlot to another man, & raniisher shall not be excused thereby (as it there seemeth) because she consented not to him: And howsoever & which man force her, yet can it be no rape in
 him,

him, vnlesse that either he take carnall knowledge of her, or be present and ayding to another, that so forceth, and abuseth her, 11. H. 4. 13. and Stanford fol. 14. and 44.

*Felonies
touching
the body and
goods.*

Thus farre we haue dealt with the body alone: now must we ioyn the body and y^e house (or the goods) together: and within this measure, there fall two diuers faults, whereof the one is called Burglarie, and the other, Robberie: each of them the more hainous in the sight of Law, because not only the house is invaded, and the goods sought for there, but also a great terrour, and dreadfull danger is often brought thereby to the body and person. And seeing that feare is most fearefull in the time of sleepe, when we least thinke of it, and cannot avoid the danger, let vs begin with the night theefe that committeth Burghlary.

*Burghlary,
rie, and the
circumstances
thereof.*

Burghlary seemeth plainly to take the name of Burghlar: which is deriued of Bower (a chamber, or inner roome) and Laron (a theefe.) So, that Burghlary is the theft done by entry into a dwelling house. And Britt. (fol. 17.) describeth a Burghlar (whom his printed booke calleth a Burgeslor) to be one, That feloniously in the time of peace breakes open Churches, or houses, or the walles (or gates) of Cities or Burroughs, in which he respected not the time of night.

But, as the Law is commonly taken in our time, there are foure speciall things that must
concern

concurre to make this felonie: that is to say, the time, the place, the manner of the fact, and the end so; which it is committed.

The time is not in the time of Peace alone (which is noted of this ancient writer only to shew, that in the time of civil and intestine war such breaking of a house against rebels is insupportable enough) but in the time of Peace, it must be in the time of night also. For (as *W. Stanford* fo. 30. truly obserueth) the Indiments of burglary be alwaies of this forme, *quod nocturno tempore*: and therewithall agreeth a report of 4. E. 6. in *W. Brooke*, Corone 185.

But in this part, it shall be good to enquire, whether all that time, which is betwene the sunne setting and the sunne rising, shall be accounted unto the night so; his purpose: or whether that time of light which is in the evening, betwene the sunne setting and night, and likewise in the morning betwene the night and sunne rising (whereof the one is called *Aurora*, and the other *Crepusculum*, and the beginning of the one, and end of the other, is by *Prologus* said to be when the sunne is eightene degrees vnder our Horizon) shall bee taken from the night, and be added to the day.

For as the booke *Coron. Fitz. 293*. taketh the evening (that is after the setting of the sunne, and before the departure of his light) to be a part of the day, in respect of an amercement to

be laid upon a toryne for the escape of him that killed a man within that time : So the Statute of Winchester (13. E. 1. speaking of the watch) saith, that it shall continue all the night from sunne setting, to sunne rising: by which words (as you see) it comprehendeth both *Aurora* and *Crepusculum* within the night.

The place.

Concerning the place, it may either be publique as the Church for prayer, and the walles (or gates) of Townes (or Cities) for defence; and then you may number those acts amongst publique felonies; or else it may be private, as a dwelling house, and then it seemeth to bee Burglarie, unlesse some person bee at that time within it, because (as I said) the Law in this offence beholdeth the place and the person together.

But, although this offence be not committed in the verie bodie of the dwelling house, but in a stable that is parcell thereof, and nere unto it, yet will it be taken for burglarie, as Master Brooke Coron. 180. doth write; and seeing like reason begetteth like Law, so must it bee, if the offence bee perpetrated in a barn of the house, or in any other out house that is so adjoining.

Each Colledge in the University, each Inn of the Court and Chancery, and every other like place, that is distributed for the severall lodgings of sundrie particular persons, is

but one entire dwelling house for this purpose, so that if any chamber (or lodging) there, be broken up in the night season for the doing of a felony, it will worke to burglary, though no man bee then in it, if so bee that any person bee within any part of the whole Colledge, Anne, or such other house. But if a man doe in the night season breake into an others close, *adipsum interficiendum*, that is no burglary, because it is not into any house, 13. H. 4. 8.

The manner of the burglary consisteth, partly The manner, in the breaking of the house, and partly in the entrie into the same. For, if a man breake the house to doe a felony, and enter not, it will be no burglary, Stanf. fol. 30. and Collections Dyer 99. But yet it seemeth by Shard. (lib. Afl. 17. pl. 38,) that he which is taken in the onely attempt of a burglary, shall be hanged for it, although he haue not put the thing throughly in vse.

And of the same opinion (as Crompton reports) was both Sir Anthonie Browne, Sir Edward Mountague, and Sir Robert Brooke, late severall chiefe Iustices of the Common place: the first of them holding, that if one doe but make an enterpryse (by night) to enter into a house to robbe there: the next, that if he shall but only turne a key, being on the inner side of the locke of the doore: & the third, that if upon an attempt of Burglary, they within the house, shall cast out their money for feare, and the at-

temptors take it away : that in entrie of these cases, it is a full and complete Burglarie.

We also reporteth that Justice Portman 3.E. 6. doe execute one for Burglarie, which was taken in the night, putting backe the lease of a window with his dagger : and the like is to be thought of him that shall be taken drawing the latch of a doore, that is not otherwise fastened.

But admitting that those doe amount unto breaches, and entries in Law only : and that a breaking with an actuall entrie is requisite, in the case of Burglarie : Let vs consider, what other acts shalbe taken for sufficient breakings and entries.

If one doe breake the glasse windowe of a house by night, and then with a hooke draweth out any goods, or doe breake a hole in the wall of any house by night, and shooteth in therby with gunne or bow, at one that is within the house, to kill him, and yet misseth him : or doe in the night season come into the house, by the helpe of a key, to steale any goods there : or doe sodainly come into the house by night (the doore being open) wherby the owner flyeth to his chamber for feare, crying for helpe, and shutteth the doore and the offender is taken in shewing at the chamber doore : in entrie of these cases also, it hath bene taken to be Burglarie, Report Crompton.

In like sort is it, if the good man of the house
(per

(perceiuing that thēues be without) will open the doores, and gos out against them: and whilſt he is in hand with ſome of them, one of theſe companie ſteppeth to the doore and ſtretching his hand ouer the threſhold (but not ſetting his foot ouer it) diſchargeth a dag againſt one of the ſervants that ſtandeth to defend the entrie, 26. Eliz. idem.

And albeit, the firſt entrie into the houſe were lawfull, or ſtanding with the god liking of the owner: yet by matter ſubſequent it may become a breach and entrie that ſhall amount to Burglarie.

As, if thēues ſhall come into a Towne by night with Hue and Cry, pretending that they be robbed, and ſhal pray the Conſtable to make ſearch for the felons, and whilſt he goeth with them into ſome mans houſe to ſearch, the thēues bind and robbe both the Conſtable and the good man of the houſe: for in ſuch a caſe, the entrie ſhal be deemed felonious euen from their firſt conning.

But if the caſe be ſo, that thēues doe enter into a houſe by night (with a minde to ſteale) thorow a hole in a wall that was broken beſore or thorow a doore then ſtanding open, and doe then depart without doing any other harme, and be taken upon purſuit: it is good to be enquired, whether ſuch a manner of entrie will make them burglars.

But if diuers come to doe a Burglarie, and but

but one of them entreth and committeth it, the rest of them standing nere to the doore, or about other parts of the house, or a good space off (as at a lanes end, or at some orchard gate, or field gate) to watch that no helpe shall come: yet it is Burglarie in all that companie, 11. H. 4. 13. Hul.

The end

The last of these points that must miene in the making of a Burglarie, is the end, and intent so; which the offender commeth: which of necessitie must bee, either to kill, or robbe some person, or to doe some other felonie, lib. A. 11. 22. pl. 95.

For if a man should breake, and enter a house by night, or purpose onely to beate a man, that is but trespass, Stanf. 30. but if it be to kill him, then it will be burglarie, although he doe not so much as touch him, Cor. Fitz. 267. & 13. H. 4. 7. And so is it also, if the purpose bee to robbe, although he taketh away nothing at all with him Cor. Fitz. 185. 264. lib. A. 11. 22. pl. 39. But if the intent were to perpetrate a Rape (which was not felonie at the Common Law, as some have thought) then is there some doubt and question made upon it.

Robbing in a house, dooth, or sent.

Thus much of Burglarie: wherunto those offences bee somewhat nere that are set forth by the statutes, 23. H. 8. cap. 1. & 5. E. 6. cap. 9. to this effect following, viz. If any person shall robbe an other, in any part of his dwelling house, or place (the owner, or dweller, his wife, chil-

children, or seruants, being within the same, or within anie place within the precincts of the same, and being either sleeping or waking) or shall robbe any person, in any Tent, or Booth in any Faire or Market (the owner, his wife, children, or seruants, or seruant, being within the same, sleeping or waking) he shall bee a Felon. Betwene the which offences, and Burglarie, the difference standeth thus: First, that these may bee done by day, whereas burglarie is by night onely: and then, that in these there must bee a robbery, or taking away of some thing, whereas in burglarie the offence may bee performed though the offendor take nothing away with him. And (by the report of *Mr. Dalison*) the statutes shall be straitly construed (in fauor of life) and according to the bare letter: so that, if the robbery be done by day, and there bee in the house but one seruant onely: or there bee in the house, booth, or tent, but a stranger or sojourner onely: the fact shall not be adiudged an offence against these statutes. To these cometh now to be added, the felonie of breaking of a house by day, and taking thence money, or goods, to the value of v. s. or more, in any part of any dwelling house, or outhouse (belonging, or used to, with any dwelling house) though no person shall be then therein, which offence (being formerly taken for a common felonie: to which Clergie was allowed) is now made equall to burglarie, by the deniall of Clergie, and (in a point

point of thovaine) is moze penall then Burglarie it selfe was. For to the Burglarie it is required that some person be in the house, which is not materiall here, and this may be committed in such an onthouse, as would not make bp that ancient Burglarie, 29. El. cap. 15.

Burning of
houses.

There is yet also one other Felonie concerning houses: For 29. Bracton saith, that if one doe burne a dwelling house maliciously, he shal die the death for it: and Britton fol. 16. describeth the manner, writing that he shall be burned for it: besides the which, West. 1. cap. 12. forbiddeth Replevin (or baillement) of such an offendor. And the burning of a house Felonice (saith 29. Brian 3. H. 7. 10.) was Felonie at the Common Law.

So is it, to burne a barn (in the night) that is adioyning to a dwelling house, 11. H. 7. 1. cur. or to burne a barn (in the day) that hath any corne (or graine) in it, although it doe not so adioyne.

Now, if the wicked purpose of a man be, to burne the house of A. only, and yet by that fire the house of B. is burned also: then is the burning of this last house felonie: because it followed of the fire that was maliciously kindled to burne the first, Comment. 474.

Robberie.

But to leave the house, and to come to the goods that doe accompanie the person, we must be to say the violent Robber, so called, either by corruption of the Latin *Raptor*, from which our tongue

tongue will easly fall to robber: or els of robe, because he that after this sozill be and fearefull manner spoiled another, did vse to take his robes (or clothes) from him. After the which sence, and like Etimologie, the Grecians called such offendours *λυστροτες*, and the Latines *Expilatores*: that is to say, Fleeters, or flawers of men. And in this kind of felonie, the law regardeth not so much the value of the thing robbed, as the feare that the robber bringeth with him to the person of him that is innaded. So that if he take any thing at all, it will be robberie, though it be not worth so much as one penie: *Coron. Fitz. 115. & 178. & li. Aff. 22. pl. 39.* And hereof M. Bracton, & Iustinian do terme this offendour, *Furem improbum, & pradonem qui rem alienam rapit.*

So that Robberie is the felonious (or theeuish) taking of any mans goods from his person to his feare and against his will, to the end to steale them. And in this description, the word (taking) is largely extended against the offendour: in so much that it may proue robberie, though the owner may (in some case) rather seeme to haue deliuered the goods, then the thiefe to haue taken the same from him: if so it proceed and be done by feare and menacing.

And therefore, if the thiefe do assault a true man, and threaten him, that (if he wil not deliuer his purse) he wil kill him, by means wher
of

of he delinoreth his purse vnto him with his owne hands: yet this is plaine Robberie, because he doth it for the feare wherewith the thiefe hath stricken him, Stanf. 37.

So, if the thiefe do (without any expresse words of threatening) only assault a true man for his purse, who (fighting with him, & finding himselfe too weake) throweth downe his purse, and the thiefe taketh it, 20. Eliz. Report. Crompt.

So if theenes take a man, and compell him (by means of killing) to sweare vpon a booke to bring vnto them a certaine sum of money, or other goods: and therupon he goeth, & bringeth the same vnto them: this is adiudged Robberie. 44. E. 3. 14. and yet he was once at liberty and out of their hands, so as he might seme to be freed of all the feare wherein he stood by them: But yet, who seeth not, that the same feare that made him to take the oath, did still follow him euen to the performance of that which he had sworne and promised.

And so it is, if theenes assault me for my purse, and I (in the flight from them) drop it down into a bush, vpon hope to haue it againe if I may escape them, and they espy it, & take it away with them: for had they not put me in feare, I would not so lightly haue thrown my money from me.

Neither is the word person so nicely to be construed in this description, that (to make by

Rob.

Robberie) the goods must needs be annexed (or fastened) to the bodie of the person. For M. Sea. fol. 27.) reckoneth it to be Robbery, if one shall take my goods openly against my will, in any place wherein I am present, though the goods be not upon any person at all: which seemeth to be good reason, seeing that in both cases, the losse is the same, and the feare is alike.

But now withall, some thing must (in some sort) be taken from the person: or else the fact will proue no robberie: for if a man do lie in awaite to robbe me, and (drawing his sword upon me) he willethe me to deliver my money: and I likewise betake me to my weapon, and therby repel him and take him, either by sight or by Hvy and Cric made after him: this will not be felonie at this day (saith 99. Stanford agreeing in opinion with Tenney 9. E. 4. 26.) because he toke nothing from me: and yet in the old time (when the will and the act, were of like account in felonie, it was otherwise holden, as it may appears, Lib. Ass. 27. pl. 38. 85 25. Ed. 3. 41.

Againe, a man may take some thing from the person of another without title to it, & by force, and to his feare also, and yet it may be doubted, whether the act will amount to Robberie: as for example it happened (26. Elizab.) that one came to a fisherman that travelled by the high way with fish to sell: and prayed to have

haue fish of him for money: the fisherman refused to sell vnto him, and he (with force and feare) tooke some of the fish, and gaue him money, to the value and above, for it, and of this case the Iustices of the Session thought good to be aduised, Report Crompton.

For an end of robberie, two thieves attempted to rob a true man, who fled from them, the one of the thieves followed him in chase, and the other espying another true man in the same high way (but out of the sight of his fellowe theefe) ran toward him, and robbed him: and then returned to his fellowe, from whom the first true man had in the meane while escaped: this was adiudged robbery in both y^e thieves, Report Crompton: and yet the one of them was neither within the sight of that robberie, nor assented to it: But because they both came to rob, and (at the same time) this fact was committed by the one, it is worthily to be imputed to the other also.

Cutpurse.

Amid and betwene the violent robber that taketh from the person by force: and the murthering theefe that stealeth when the person (or the owner) is absent, standeth the craftie Cutpurse, or Pikepurse, that taketh goods (or money) from the person by sleight onely, the owner neither being made afraide, nor witting of it.

This fact as it is no robberie, because it is void of assault, force, and feare: so whether is it

it any felonie unto death, vnlesse the thing taken be of moze value then xij. d. in money, Collect. 12. Dyer 224.

And in this kind of offence, it is thought necessary, that the thiefe haue an actuall possession of the thing, seuered from the person of him from whom it is taken. So that, if the offender cut a man's girdle, at which his purse hangeth, and the purse falleth to the ground, and hee be descried befoze he take any hold of it: this will not make felonie: but if he take the purse in his hand, and then cut the girdle, and after ward let them fall, that will proue him a felon, because he had a manuell possession of the purse removed from the person: Crompton. And now I am (by the course of mine own order, and division) drawne from the body, and diuinen to take in hand that Felonie that worketh vpon the goods alone.

This doth *Sp. Stanford* call *Larceny*: a name fetched from the Latin *Latrocinium*, which language would as soone haue knowne it to be her own, if we had called it *Latrocinie*, but she must be contented to beare with our custome of clipping whatsoeuer we doe borrow from her. *Sp. Bracton* calleth it *furtum*, & *Varro* said that *fur* was deriued a *ferus*, (that is, darke) because thieves do willingly worke by night, as hating the light of the sunne that may betwaze them. But *Gellius* noteth him of error, and thinketh that *fur* came of the old *Greeke* word *φύρ* which

Latencie.

signifieth a thiefe (or a stealer) so named (as Iustinian writteth) of the word *fero*, which is both Englike and Latine, and signifieth to carrie or beare away: which is the verie end for which the thiefe commeth.

¶ Bracton defineth it thus, *furtum est contrahio rei aliena fraudulenta, animo furandi, inuito domino*: which definition is tollerable, although ¶ Stanford doe not like it. For Bracton meant thereby to describe all maner of theft, whether it were robberie it selfe, or great or petite larcenie, even as the Civilians doe vse to teach.

But because I have taken an other way in felonies, I will (for mine owne purpose sake) describe Larcenie to be a felonious and fraudulent taking of an other mans personall goods (removed from the bodie or person) without his wil to the end to steale them.

Petite larcenie And albeit petite Larcenie be not punishable by death (as the greater larcenie is) yet be they both felonious and fraudulent takings, &c. In the Indictment of petite Larcenie (saith Judge Fitz. 17. H. 8. 22. must be *Felonice copis*, and he shall forfeit his goods for such a felonie. So that there is no difference either in the nature of the offence, or in the mind of the offender, but only in the value of the thing that is taken, which also maketh the degrees of the punishment.

And therefore, if it be found by the Jurie to exceed 12. d. in value, hee shall die for the fault
and

and (if it be of, or vnder that worth) he shall bee corrected by the discretion of the Iustices that may heare and determine it, West. 1. cap. 15. Brit. fol. 21. Cor. Fitz. 404 & 406.

But heere on the one side if a man commit diuers pettie Larcenies, which (in all) doe excee the value of xij. d. then may they be put together into one Indictment, and he shall suffer the paines of death therefore, Coron Fitz 415. and on the other side, if two or moe persons do toyne in the stealing of goods that doe surmount xij. d. they all must die for the fault, ibidem 404. for (as saith *Sp. Stanford*) that felonie is senerall in Law, euen as those others were senered in act, and deed.

But for the moze clere vnderstanding of Larcenies, I will first shew of what things Larcenie may bee committed : and then, after what manner, and with what minds, the same may be perfoꝛmed : for as touching the persons that may be charged with that fault, they will be shortly comprehended.

It is felonie therefore to steale any the moueable goods of any person : but because it may in some cases bee doubted, whether the things so taken are to bee numbꝛed amongst moueable goods, or no, I will proceed in particularitie.

Money, plate, apparrell, household stuffe, coꝛne of any soꝛt (or hay, or fruit) that is senered from the ground, hoxses, mares, colts, oren,

oren, kine, sheepe, lambs, swine, pigges, hennes, geese, duckes, peacocks, turkies, & other beasts and birds of domesticall (or tame) nature, are such, as felony may be committed in the taking of them.

It may be felonie also to take some that be of a wild nature: as to take yong pigeons, or yong hawkes out of their nests (or aeries) befoze that they can fly. So, to take fishes that be kept in a trunke, stew, or pond, 10. Ed. 4. 15. 18. Ed. 4. 8. 4. lib. Ass. 12. pl. 98. & 18. H. 8. 2. For, as a man hath a proprietie in those first things, that be domesticall, and therefore it is plainely theft to take them: So, in these later, he hath such a possession of them, that the one for weaknesse, and the other for the restraint, cannot (without helpe) vse their nature, and so take him: and therefore it is like iniurie to steale them also.

But otherwise it is of doves, or hawks, that can fly at libertie: and of fishes that line abroad in rivers, or streames, because they are *nullius in bonis*, and therefore *occupantis conceduntur*. And yet, by statute Law there is one exception: For if a man find a Falcon, Goshawk, Lanneret, or other Falcon, that was lost, and doe not forthwith bring it to the Sherife, to be proclaimed, but doe steale, and carie away the same, it is declared to be felonie, 34. E. 3. cap. 12. & 37. E. 3. cap. 19.

But to goe forthward: To take Whelants, Partridges,

Partridges, Hares, Conies, Herons, Swans,
or Deere, that are abroad : or to take dogges of
any kind, Apes, Parats, singing Birds, or such
like (thought they be in the house) is no felonie,
because these later be but for pleasure only, and
are not of value : and those former bee of wild
nature, as those others are whereof I spake be-
fore, 18. H. 2. And therfore Just. Hales (7. E. 6.)
thought it no felonie to take a diamond, rubie,
or other such stone (not set in gold or otherwise)
because they be not of price with all men, how-
soever some do hold them both deare and preci-
ous.

And here againe is some exception: for to take
a tame Deere is felony, if at the least the taker
know it to be tame, 10. E. 4. 15. & Stat. 25. And
the statute 1. H. 7. cap. 7. maketh it felony to
hunt Deere, or Conies (after some sort) in a for-
rest, parke, or warrein.

Furthermore, to take the flesh of any tame or
wild foule or beast (that is dead) out of the pos-
session of an other man, is felonie, Stat. 25. So
to take the wool from the Sheepes backe, or to
take the skin, and leaue the body behind, will be
felonie, Report Dalyson.

And now you must remember, that in the
description I said, of an other mans personall
goods : for to take chattels reals, will not a-
mount to felonie, as to take the charters of a
mans land, in or without a bore, or to take an
infant in ward can be no felony because they be

reall, and not personall chattels, 10. E. 4. 15. And yet the statute (5. Eli. cap. 14.) toucheth them in Felonis, that shall secondly offend in forging deeds concerning an other mans lands, &c. by which they indure to steale (as it were) his inheritance from him.

Againe, to steale fruit that hangeth on the tree, or to cut downe and carie away the tree it selfe, or to take the lead from a house, or church, will not worke to any felonie, because these things be part of the freehold, till they be severed, and cannot therefore be reputed for any chattels, Corone Fitz. 119. & 256. & Report Crompton.

But if I gather mine apples, or cut downe a tree of mine owne: then may another become a Felon by taking away of either of the. Sta. 25.

And (by the opinion of Mar.) if a man cut downe a tree of mine this day without title, and fetch it away to morrow, that will prove him a Felon, because it was a chattell severed when he took it.

Whoeuer, to take treasure that was hidde, or goods or cattell that be twained or wreched, or strayed, is no Felonie, Coron Fitzher. 187. & 265. and Stanf. 25. because it doth not yet appeare who is the owner of them, and the words of the description be, another mans goods: And it is not like, as where the goods may bee said to be, *Bona capelle, bona parochianorum, bona cuiusdam mortui ignoti*, or *Bona domus ant eccle.*

reclisia in the time of vacation: for in all these cases, these be *domini*, or owners of them to some purpose, *Endit. Firz. 15.* yea if a man doe baile (or lend) his goods to another, and do afterward feloniously take them againe, this shall charge himselve in felonie: for although hee were owner of them, yet had the other therein a speciall propertie also, by which he might haue an appeale or action of trespassse against a stranger that should steale or take them, *7. H. 6. 43.* And agreeable to this the *Ciuiltians* do adiudge it theft, if one that laieth his goods to pledge do imbesell them from the partie to whom they were engaged.

So (by the opinion of Marrow) if I lend my plate to one that melteth it, and I take that mettall feloniously, it is felonie in mee, because the propertie is altered by altering of the fashion.

Thus farre of the things that are subiect to this felonie. Now let vs see what maner of act and demeanour is requisit to make the fault full. Two things must concur, namely, to take and to carie away (or remoue) the thing taken with a purpose to steale the same. For the *Indicement* must alwaies be *cepit & asportauit*, or *cepit & abduxit*. And in either of these two, the letter and word is not so much to bee regarded, as the meaning and sense thereof, for the more severe and assured suppression of offenders. For as it is clerely felonie, if a man take my goods

In what maner
this felonie
is committed

(with a mind to steale them) without any deliuerie by me: so it may pꝛoue felonie also, though hee come first vnto them by deliuerie from mine owne hand.

And therfore if a Tauerne deliuer a goblet to one to drinke his wine, & he carie the goblet away, it is Felonie, because the Tauerne gaue him no possession thereof, but the vse for the time onely, 13.E.4.10. So if I deliuer to a man certeine bales of Dade, or a tun of Wine to carie to Canterburie (giving him money for the carriage thereof) and hee carrieth them to Poike, and there breaketh vp the bales or tun, and conuerteth part of the Dade or Wine to his owne vse, it is felonie in him, ibid.

But if I deliuer my goods to a man to keepe and he fraudulently consumeth them, or otherwise conuerteth them to his owne profit, it is no felonie, ibidem: for that booke agreeth that if the other had conuerted all the Wine, or all the Dade (as he receiued them) to his own vse, it had bene no felonie by reason of the deliuerie: but here it may be truly said vnto him that neither the Dade nor Wine were deliuered to him in the plight whereto himselfe hath bought them, and so (vpon the matter) hee had no deliuerie of them, but a bargaine to carie them.

And if my Cooke, Butler, or Hoyskepper, shall goe away with any of my vessell, plate, or hoyses, which they haue in their keeping, it is felonie, because they haue no deliuerie in:
somuch

asmuch that whilst those things were in their hands within my house, the possession of them is continually remaining in my selfe, and not in them: But (3.H.7.12.) there is some strong opinion against it.

If I deliuer my goods to one to carrie to a place in London, and hee carrieth them accordingly, and then conueieth them away, and selleth them, it will be felonie, because the prinitie of the deliuerie was determined so soon as he came to the place, Stamf. 25. and then hee hath no more a deliuerie, then if I should giue to one the key of my chamber, and he would therewith open the dooze, & take the goods that are therein from me, Stamf. 26.

A man may gather by Glanville, that the ancient Law gaue no indgment of felonie against him that came to the possession of the goods by the hand of the owner: so; he saith lib. 10. ca. 13 *Furtum non est, ubi initium habet sue detentionis per dominum rei*: and thereupon grew those differences of opinions concerning goods in the charge of seruants: so; the appeasing whereof (in some part) the statutes (21.H.8.cap.7. and 5.Eliz.cap.10.) doe declare it to be felony, if any seruant of the age of eightene yeeres (other then an Apprentice, which also is to be understood of him that is bound by Indenture, by the name of an Apprentice) shall goe away with, or conuent to his owne vse, any money, icwels, goods, or canels,

cattels, of his Masters, or mistresses, and of his or her deliverie to keepe, of the value of xl.s. to the intent to steale the same.

But even as to labor to take away all doubts in Law, is nothing else, but *Hicra caput amputatione*: So within fortie yeres after that statute (which was made so) the resolution and clearing of those former doubts) sundrie questions did grow upon the construction of this Law it selfe.

First, if a man deliuered an Obligation to his servant to keepe, and he tooke vp the money due thereby, and went away with it: and then if a man deliuer to his servant wares to be sold at a faire (or market) and he selleth them there, and goeth away with the money: whether these offences be within that statute, 21. H.1. And it seemeth by the better opinion, that they are not: for in the first case the money was not deliuered, but the Obligation: and then the servant stole not that which was deliuered, but an other thing, and that also a thing in action only and so of no value at all. And in the latter question, the first part of the former reason holdeth also.

Now be it, if the servant received xx.li. in gold which hee changed into silver money, and then ran away with that, his fault wil rise to felony because that gold and silver were both but money, though diuers mettals, Collect. Dyer so. 5 & Report Crompt. 17. Eliz. And it seemeth by
Dyer

Dyer there, that if one seruant doe deliner to his fellow seruant, the goods of their master to keepe, and he goeth away with them, this shall be felonie within the meaning of that statute, because it shall be said to be the delinerie of the master himselfe.

An other felonie there is also declared by the statute (33.H.6. cap. 1.) against the household seruants, that doe take and spoile the goods of their deceased master: but that felonie groweth upon their default of apparance in the Kings Bench, after Proclamation, and therefore our Justice of the Peace cannot take knowledge of it.

The other point that (as I said) must concur to make vp this felonie, is the carying away, or remotion of the thing that was feloniously taken. In which part also, it is not of necessitie, that it be cleane carried out of the place where it was, but it suffiseth that it bee so farre removed, or stirred, that the euill minde of the taker may plainly appeare. As if a guest will take the sheets out of the chamber where he lodgeth and then goe towards the stable for his horse, with a minde to steale the sheets, and is taken with them, this maketh his felonie full, although he hath not caried them quite out of the house, lib. Ass. 27. pl. 39. And like Law is it if a man doe take a horse in an other mans close with felonious intent, and bee deprehended in the

the fault befoze that he haue led him out of the same close, Report Dalyson.

what persons
are chargeable
in Larcenie.

Touching the persons that may bee charged with Larceny, they shall best appeare by a Negation, or handling of those which cannot be charged with it. And so; that purpose, if the husband and wife doe commit a Larceny together, it shall bee imputed to the husband onely, Corone Fitz. 106. Neither is she chargeable if the husband compell her to commit the larceny alone, lib. Ass. 27. pl. 40. But if she doe it by his only commandement, without other constraint then *q. Bracton* affirmeth it to be felony in her and *q. Stamford* doubteth of it.

And the wife shall not be accounted a felon so; stealing of the goods of her owne husband: yea although an other (that knoweth it) take them of her, yet is he no felon so; it, Corone Fitz. 455. & *Scamf.* 27. But a wife may become a felon by her owne act, the husband not knowing thereof: as if she steale an other mans goods or receiue the thiefe that stealeth them: and in such case if the husband know not thereof, or (knowing it) doe so; thwith for sake his house, and her companie, hee shall not be charged in her offence, Corone Fitz. 383. The infant, the furious man, the lunatike, and the dumbe and deafe person, are chargeable in Larcenie, after the same sort as they be charged in Homicide befoze.

The principall felons of all sorts being thus per.

perused, we are now to consider of their accessories, for they be felons also. It may plainly be collected by Bracton, and by the Statute of Westminster 1. cap. 15. that in the ancient time the Law took knowledge of three sorts of accessories: some before the felonie done, as commanders thereof: others at the verie time of the felonie, as those that (being present) gave force by aid thereunto: and others after the felonie committed, as those which received or comforted felons knowing of the offences, that they had made.

Accessories to
felons by the
common law;

And *Sp. Stamford* (fol. 71.) saith, that all abettors, consenters, and procurers be taken to be within the reach and measure of accessories before the offence committed.

But, soasmuch as it is evident by many booke (and namely by 7.H.4.27. 11.H.4.13. 10.E.4.14. 21.E.4.71. & Corone Fitz. 309. 314 350. 433. and others) that the Law is otherwise taken at this day touching them of the second sort, that be of societie with the principall, and be also present with him at the doing of the felonie (whether it be Murder, Robberie, Burglarie, or Larcenie) insomuch, as it adiudgeth them principals no lesse then him that both actually perpetrate and worke the offence (as it may sufficiently appeare by that which is said before) I am eased of the labour to deale with them, & shall not need to handle any other sorts of accessories, but those onely, that bee either
before,

before, or after the time of the felonie done and committed.

**Accessaries
by Statutes.**

And here (at the first) I am fallen vpon a new
fold question: the one, whether there may be
any accessaries to such felonies as were not at
the common law, but were afterwards created
felonies by statutes, vnlesse the same statutes
doe specially so appoint it: and if there may be
such accessaries before the offence, yet then
whether there may be any accessaries to such a
felonie after the offence also.

And, albeit the first of those questions might
hane receiued the more easie resolution: for that
all such as doe will or procure any felony to be
done, are the verie cause thereof, so as without
them it is to be thought that it should not hane
been committed: yet they of the Parliament
house (in the making of sundrie new felo-
nies) thought it conuenient for the auoyding of
all doubt, to comprehend in plaine speech the
accessaries, both before and after. For so you
may see it done, by the seuerall statutes, 1. Mar.
cap. 12. made against Rebellious assemblies,
1. & 2. P. & M. cap. 4. against Egyptians, and
so of such others.

And this caused Mr. Stamford (fo. 44.) to write
that there could be none accessaries (after the
offence) to the felonie of embzelling Records,
declared by 8. H. 6. cap. 12. nor to the felonie of
conurbation, set forth by the statute 33. H. 8. c. 8
because those two statutes haue no expresse
mention

mention, but onely of the accessaries before the offence committed : And that there could be none accessarie at all, to the felonie of taking of maidens, widowes or wives against their wills (enacted 3. H. 7. cap. 2.) because thereby, the procurors, abbetors, and receivors, are adjudged to be principall felons.

But, for a more certaine rule in all these points I will vse this owne case, that happened in the Kings bench (3 & 4. P. & M.) as Judge Dalyon reporteth it.

Two men (saith he) were indicted vpon that statute (3. H. 7. ca. 2.) for the taking of a woman against her wil feloniously: and two other men were then also indicted, for that (knowing the felonie) they did receive, and comfort the first said offenders. In this case, albeit the statute doth make as well the procurors, and abbetors of the felonie, as also the receivors of the woman (knowing the mat^rer) to be principall felons; and thereby these two persons, which received the felons onely (and not the woman) can be deemed no principals: yet, all the Judges of that court were then of the opinion, that these receivers be accessaries to his felonie by the statute, no lesse then if it were to a felonie at the Common Law. For, when a statute (say they) maketh a felonie, it is a felonie, and hath accessaries to it, even in the same maner as if it had been felonie at the Common Law. As in a Rape, which is declared by the statute

statute (West. 2. cap. 34.) saying, If a man ra-
vish a woman, where shee assented not beefore,
nor after, let him have iudgement of life and
member: yet, if an other (knowing of the fact)
shall receiue the ravisher, he sha' be an access-
rie, no lesse then if it were to a felony that had
beeene by the common Law.

Accessaries
befoze the of-
fence was
done.

The ground of accessaries being thus level-
led by the line of this iudgement, I will walke
euenly thzough it, and handle (vnder one) both
the accessaries befoze, and after, as well by the
common Law, as by the statutes.

Such therefoze as shall either will, comand,
hire, procure, conspire, consent, or abbet, any
Murder, Rape, Robberie, Burglarie, or Larce-
nie to be done, and bee not present at the doing
thereof, are accessaries befoze the felonye done,
and thereby felons when the felonye is done.

And albeit, that the chiefe offendour doe not
accomplish the fault altogether in the self same
sort as it was befoze hand agreed, and plotted
betwene him and the accessaries: yet, if any fe-
lony fall out by that attempt, either against the
same person, or against any other, then those
that were so priuie thereunto shall be taken for
accessaries vnto it. As if A. willet B. to beat
or rob C. and he attempteth it, and thereby so
beateth him that he dieth thereof, now is A. an
accessarie to the murder, Corone Fitz. 314. &
Comment. 475.

So if a man command one to set fire on the house of A. and he so doth, and by kindling the same fire, the house of B. is wasted also: this commander is accessarie to the burning of the house of B. though he neuer meant that the fire should goe any fur: her then to the house of A. only, *ibid.* For, in either case, the latter euill was but a sequell of the former, which was commanded by him, and attempted by the other.

Againe, if a man hire one to poison another and he killeth him with a sword, or contrariwise killeth him with poison when hee was willed to slay him by sword: this procurer is an accessarie to the murder: *Dalyson.*

So also, if one procure a man to kill another in the field, and he killeth him in a house, or Church: or to kill him such a day, or at such an houre, and hee killeth him at another day or houre. For, their wicked purpose is effected as they agreed, though by any other meane (or circumstance) then was set downe betweene them. *Comment. 475.*

But if I command one to take A. and hee taketh any robbeth him, I am no accessarie to his offence: *Stanf. 41.* So, if one doe conspire with another, that the one of them shall burne the house of A. and he burneth the house of B. or that hee shall steale the horse of A. and hee stealeth his Ox: or that he shall rob A. in the high way, & he robbeth him burglarly in the night season

season within his house: now is that other no accessarie to any of these felonies, for that they be either in other things, or of other kindes, then were intended, Commentar. 475. And (which is more strange) if the husband conspires with any other to poyson the wife, and he for that end procureth and bringeth poyson to the husband, who sempereth it with an apple, and giveth it to his wife to eat, and she (thinking none evill) delivereth a morsell thereof to her daughter there present, who also eateth it, and dieth of the poyson: yet is that other person no accessarie to this murder that the husband hath committed, because it is a distinct thing from that which he purposed: and (against him that is not the immediat murderer) the signal of the fact shall not be donne to charge him beyond that which was intended by him, Commentar. 476.

But now, in all these, and like cases of accessaries befoze the fault, it is of necessity that the commander, hyzer, procurer, or conspirer, do continue that his mind and purpose, run till the felony be fully done and executed. And in this respect though it be no felony (as I said) to strike a woman with child, wherof the child dieth after it is bozne: yet if a man shall maliciously procure a woman that goeth with child to destroy that child so soon as she shall be therof delivered & she thereupō doth it: now is he an accessarie to this Murder: because the procurer

procurement before the birth, continueth untill it be executed by the murder, which followeth the birth, Collection Dyer 186.

But other wise, if he shall repent him of his malicious mind, and thereof give notice to the other, and withall charge him that he make no such attempt, and hee doth neuerthelesse bring the same to effect, then is such commander or procurer no more accessarie to the default, then if hee had neuer imagined or thought upon it. Comment. 476. Neither doe I thinke, if a man forkeknow of a felonie (intended to be done) and do conceale it, and thereby suffer it to passe to be effected, that he can be made an accessarie thereby: vnlesse hee haue also vttered some expresse consent, or giuen assured signe of his owne allowance and liking of the same: but rather, that such his concealment will weight to a misprision (or contempt) for which hee shall bee fined: even as if it happened him to be present at the doing of a felonie (whereof he neither had knowledge, nor came therfore nor gaue aid therunto) and would neither disturbe the felon, nor leaue hue & cry after him, Stam. 40. & Coron. Fir. 395.

Accessaries after the felonie, bee those which (knowing of the felonie) do feloniously, or with an euill mind, receiue, harbo, saue, or otherwise comfort the felon, whether it bee in the same countie in which the felonie was done, or in any other.

Accessaries
after the
offence.

For, if a man shall onely make suit by his

word (oꝛ wꝛiting) in the behalfe, and foꝛ the deliuerance, of one whom he knoweth to be a felon, this is done of fauour, but yet not with ſuch an euill intent, as that it ſhall make him an Accessary thereby, Lib. Aſſ. 26. pla. 47. But if a man do (vpon Hue and Crie) arreſt a thiefe that hath ſtollen the goods of another, and then (with an euill mind) take the goods, and ſo let the felon go, he is to be arraigned foꝛ it, as an accessarie to the felonie, if not as a principall felon : foꝛ ſo is the doubt moued, Lib. Aſſ. 27. pla. 62.

Againſt, if a man purſue, and take a Felon that hath ſtollen his goods, and then taketh his goods, and ſuffereth the thiefe to go at large, he is no accessarie thereby : foꝛ he may *agere criminaliter*, oꝛ *criminaliter*, at his owne pleaſure, as M. Bracton wꝛiteth : but if hee take money of the thiefe, to the end, that he ſhall not giue euidence againſt him, whereby the thiefe eſcapeth, then he is become an Accessarie to the Felonie of his owne goods, by the opinion of Judge Hales (6.E.6.) becauſe it is done with a mind to comfort the Felon in his euill doing, Report Dalyſon.

To receiue, harbour, oꝛ relieue with money, a man that is bailed foꝛ felony, and bound to appeare foꝛ his triall, breedeth no danger of being an Accessary, becauſe the Law doth him that fauour, and the Felony cannot be concealed by it. Neither will it make a man accessary

to receiue (oꝝ buy) the goods, that he knoweth to be stollen, vnlesse he doe receiue the thiefe that stole them, 9.H.4.1. & Coron. Fitz. 126. & 208.

And although the preamble of the statute (2. & 3.E.6.cap.24.) seemeth to call him an accessary that receiueth the goods only: yet that must be vnderstood of him that receiueth the goods and the felon together. For it was not the purpose of the Statute (as I thinke) to make any new accessary that was not before, but only to prouide triall (where it wanted) for those Accessaries that were before.

Furthermore, as one man may be accessary to a principall felon: so may another man be accessarie to that accessarie also. For, if one do feloniously receiue oꝝ comfort him that is an accessary, he is fallen into equall danger with him, & is called an Accessary to an Accessary, lib. Ass. 26. pl. 51. Coron. Fitz. 196.

Againe, in the iudgement of an Accessarie, nature is not allowed her excuse: so (Coron. Fitz. 427.) a felon fled to the house of his naturall brother, who shut the fore-dore against them that pursued the felon, and conueied him out of the house by a backe dore, whereby he got to the Church: and this brother was adiudged an accessary for it.

But yet such consideration hath the law of the duty of y^e wife towards her husband, y^e she shal not be deemed an accessary, though (knowing

him to haue committed a felonie) shee doe both receiue, and comfort him, and also coner the fault that he hath done, Coron. Fitz. 383.

And in all cases of an after Accessarie, this one thing is generall and requisite, that the fact (to which he is an Accessary) be a felony at the very time in which he becommeth an Accessarie to it. For, if a man do giue a mortall wound to another vpon the first day of August, and a third person (knowing thereof) receiue him two or thre daies together, and letteth him goe, and then afterward hee that was stricken, dieth of the wound within the yeare and day: yet this receit maketh the other none accessarie, because the principall fact was then no felonie, Report Dalyson.

One person
charged as
principall and
Accessarie.

And if a man haue bene charged as a principall felon, and vpon triall be acquitted thereof, yet may hee (if the speciall matter will seruie) be an accessarie thereto after the offence, though not an accessarie before. Coron. Fitz. 100. & 463. For (as M. Bracton saith) those offences which make an accessarie before, be so fast tied and knit to the principall fact (whereof they be very causes) that they cannot be seuered from it: whereas those others (which make an Accessarie after) do follow the fact alowe, which also is in it selfe complete without them.

And to this opinion M. Stamford inclineth, fol. 105. But as he confesseth that the lawe was
other

otherwise taken in ancient time, and that the party might be charged as an accessory before the offence also, as it may appeare, Cor. Fitz. 424. So I finde, that the late opinion of all the Justices (1. and 2. Phil. and Marie) was agreeable to the same: because the principall fact is one offence, and the accessarie fact (whether before, or after) is another offence, and distinct from it: insomuch that although a pardon of all felonies, will not discharge a murderer, yet it is an ayable for all the Accessories thereto, be they Accessories before or after, Report Dalyson.

Now, as all that which is hitherto spoken, is meant of accessories to felons, that be not attainted: so is the same much more to be holden, concerning accessories to felons y^e be attainted, & of record. For to receive an approuer (knowing him so to be) will make a man accessarie to the felony that he hath confessed: and of like danger it is, wittingly to receive him that is attainted of felony, by way of vltawrie: Cor. Fitz. 285. And in this later case, there is some opinion, that a man shall be an accessarie for receiving a felon attainted (especially in the same Countie) though he know not of the attainer at all, Coron. Fitz. 377. & Collect. Dier. 355. for every man (say they) is bound to take knowledge of a matter of Record, at the least in the same (though not in a forrein) county: but 99. Brac. very reasonably requirerth

a right and direct knowledge in the parties, to make them accessory, as wel in the one case as in the other: for albeit a record (and especially the pronounciation of an outlaw) be so notorious, that every man may easily come to know the same: yet, were it an over great extremity, that each man should (upon the perill of his owne life) enforme himselfe, and take vnderstanding of it.

I have now (as you see) gone over this large field of principals, and accessories, in all their sundrie sorts of felonies: so much & more shall lie in pace, as I have laboured to carrie the reader in company with me, & that also the rather, because it is a point of great weight, frequent in use, and fit for every Iustice of the Peace to heare, and vnderstand.

what things
some one Iustice
may doe.

Now, as I have passed through the power of any one Iustice: So I am to prosecute, by way of short note, the power of some one Iustice of the peace, and so conclude this second booke.

Stock of the
shire for the
poore.

The assesse, made at the Easter Sessions of the peace upon every parish in the county shall paye in default of the Parishioners (and in default of the Churchwardens & Constables there) be rated by order of such Iustice of peace as shall dwell in that parish, or (if none so be dwelling) in the parts next adioining: And in default of the said Churchwardens & Constables any Iustice of peace within the limit, may levis the same by distresse and sale of goods of any

any person refusing or neglecting to pay his portion thereof, and shall render to the partie the ouerplus of such sale, and in default of such distresse, any Iustice of that limit may commit to prison such person without baile till he pay the same, 43. Eliz. ca. 2. 1. Iac. cap. 25.

The like order is taken concerning the assesse made for Souldiers and Mariners. 43. Eliz. cap. 3. 1. Iac. ca. 25.

Any one of those two Iustices of peace, which (by this statute) may appoint ouersheres to the poore may also send to the house of Correction such as will not imploy themselves in worke, according to this Statute, 43. Eliz. cap. 3. 1. Iac. cap. 25.

The *Custos Rotulorum*, or the eldest of the *Quorums* in his absence, ought (at the generall Sessions after S. Michael) to appoint two Iustices of the peace (the one being of the *Quoru*) to haue the ouersight, and controulement of the Sherifes entering of plaints and amercements. And one of those Iustices may examine, and (without further enquisite) commit the gatherers of the same amercements, if they gather any more money then is contained in their last fall Certe, 1. H. 7. ca. 13.

Popish Recusants bound by compells, and other persons which haue not repaired to some small Church, Chappell, and there heard diuine seruice by the space of thre moneths last past, dwelling, or which shall dwell in any coun-

Stocks & Soldiers.

Indisposed

Sherifes.

Recusants.

county within ten Miles of the Citie of London, shall report from thence according to this Statute, and deliver vp his or her name to the next Iustice of peace in the same Countie, vpon paine of forfeiture of an 100. pound. 3. Iac. ca. 5.

**Confined
Recusants.**

Any one of the 4. Iustices of peace (which by this statute) may licence a confined Recusant to trauell, may minister the Oath, to be taken by such Recusant, that hee hath truly informed them of the cause of his iourney, and that hee shall not make any causelesse states, 3. Iac. cap. 5.

**Crossebowes
or handguns.**

Every person finding or seeing any to offend the statute made against shooting in Crossebowes and Handguns, may arrest and bring, or conuey him to the next Iustice of the Peace of the County, where he was found offending, who (upon due examination and proofe thereof before him made) may by his discretion commit him to the Gaole, there to remaine till he shall truly pay the one moitie of the forfeiture of this statute to the King, and the other moitie to such first bringer or conueier, 33.

His cap. 6. And in such other cases the Iustice of peace, having (as it cometh) the whole matter committed to himselfe alone, ought to be wary and circumspect, lest either he rashly condemne the guiltlesse, or negligently suffer the guiltie to escape: and vpon the offence sufficiently proued, it is necessary that in his

Precept

Precept to the Gaoler) there be contained the names of the parties, with the maner of the offence, and how long time he is to be kept in prison for it.

Furthermore, he is to make a Record of the matter, and to send the Extract of it into the Eschequer, whereby the Barons may (upon intelligence thereof) cause the Kings duties to be lenied to his use. And although the forme of *h* *Murrin*, might be easily fashioned by some other Presidents in this Booke, yet for *h* maps readie helps of the Iustice in this, and towards other like, I will not sticke to leave him a pattern both of that, & of the Record it selfe also.

To the Keeper of his Maiesties

Gaole at *Maddstone*, in the said

Countie, and to his Deputie or

Deputies there, and to

euery of them.

FOrasmuch as this present day, A. B. & C. D. *Knt.*

of Halling in the said Countie *Yemen*, did arrest and bring before me at Halling afore said, one I. at S. of Friendsbury in the said Countie Mariner, whom they had seene and found the same day (as they said) shooting in a hand gun, charged with powder, and a pellet, at a *Combe* in a certaine place in *Cuckstone*, within the said Countie called the Churchfield, contrary to the Law of this Realme, and thereupon praised me

that

that Iustice might be done in that behalfe.

John Lewison Kinght, being the next Iustice of the Peace in the said Countie to the place aforesaid, did then at Halling aforesaid vpon the said request take the examination of the said I. at S. and did also then and there, heare the proofes of them the said A. B. and C. D. touching the said offences: and for that it did then manifestly appere vnto me, as wel by the testimonies of them the said A. B. and C. D. as also by the plaine confession of him the said I. at S. that he had not then lands, tenements, fers, annuities, or offices to the cleere yearly value of 100. li. and that hee had shot in the said handgun in maner and forme as is aforesaid: I do send vnto you herewith the body of him the said I. at S. as lawfully convicted of the said offence before me: requiring you in his Maiesties name, to receiue him into your said Gaole, and him there safely to keepe as his Maiesties prisoner, vntill that he shall haue truly payd the paine and forfeiture of x.li. of lawfull money of England laid vpon him for his said offence by the Statute thereof made in the 34. yeere of the raigne of the late King Henry the eighth, that is to say, the one moiety thereof to our said soveraign Lord, & the other moiety to them the said A. B. and C. D. the first bringers of him before me. And this shall be your sufficient warrant in this behalfe. Hereof faile you not, as you will answere for your contempt at your owne perill. Ye comen at Halling aforesaid, the xx. day of

of March in the 2. yeare of the raigne of our said
Souveraigne Lord *James*, by the grace of God,
King of England; Scotland, France, and Ire-
land, defender of the faith, &c.

By me the said

J. Leveson.

Memorandum quod xx. die Martij, anno reg-
ni Domini nostri Iacobi, Dei gratia, &c.
Ang. Scotia, Francia & Hyb. Reg. fidei defensoris,
&c. A. B. & C. D. de Halling, in comitatu pradicto,
Yeomen, quondam I. at S. de Friensburie in dicto
comitatu Mariner invenerunt, & viderunt apud
Cuckstone in com. pradicto, die et anno supradicti. cum
quodam tormento (Anglice vocat. a Handgun)
operato pulvere tormentario & globo plumbri (An-
glice charged with gunpowder and a leaden
bullet) in quendam cuniculum adtunc existentem
in quodam loco ibidem vocato Churchfield, agili-
tatem & exonerantem dictum tormentum, contra
formam statuti (in Parliament. Dom. H. nuper re-
gis Anglie octavi, apud Westminster, anno regni sui
33. tent.) promissi ac editi: Ac pro inde die & anno
supradicti. prefat. I. at S. arrestauerunt, & apud
Halling pradictam me I. Leveson milite, (vno, &
dicto loco proximo Iusticiariorum, dicti dom. reg. ad
pacem in dicto com. conservandum, necnon ad di-
versas transgress. & alia malefacta in eodem co-
mitatu perpetrata audiendum & terminandum
assignatorum) adtunc una secum adduxerunt,
potentes

Kant.

potentes inde iustitiam fieri. Qua quidem petitione audita, Ego prefatus Iob. Leneson, apud Halling pradict, die & anno supradictis, debite superinde examinavi prefatum I. at S. ac probationes pradicti A.B. & C.D. in hac parte cepi: Ac propterea quod tam per probationes pradictas, quam per confessionem ipsius I. at S. adtunc & ibidem apparuit mihi manifestè quòd prefat' I. at S. (cum non haberet in iure suo proprio, nec in iure uxoris sue, ad usum suum proprium, nec aliqui alij ad usum eiusdè I. at S. haberent terras, tenementa, feoda, annuitates, aut Officia, ad clarum annuum valorem centum librarum) in tormento pradicto modo & forma pradictis sagittasse contra formam statuti pradicti, Ego prefat. Iobes Leneson prenominat' I. at S. die & anno supradicti proxima gaola dict' dom. Reg. apud Maidston in Comitatu pradicto de transgressione pradicti coram me coniunctim commisi, ibidem moraturum quousque penam & forisfacturam decem librarum legalis monete Anglie verè solueret, viz. unam medietatem inde dictis A.B. & C.D. primis eiusdem I. at S. coram me duelloribus. In quorum omnium fidem & testimonium. Ego prefatus Iob. Leneson, hijs presentibus sigillum meum apposui. Datum apud Halling pradict die & anno primum supradictis.

Per me prefatum
Iob. Leneson.

Handgun and
Crossbow.

And every person (other then such as are so authorized by the pœrty value of one hundred pounas,

pounds, as is also said) ought if he be licenced to shoot in Crossebow or handgumme, and doe inhabite in the Countrie, to present his name to y^e next Iustice of peace adjoining. And thereupon the Iustice ought to present & retord the same before the Iustices of the peace at the next Quarter sessions, 2.E.6. cap. 14. But learne of others, whether this part is to haue continuance still, or else did onely extend to such persons as had licence at that time.

The Supenuisors for amendment of Highwaies, ought within one Moneth next after any offence done by any, against the Acts, 1.& 3.Ph.& Mar.ca.8. & 5.El.ca.13. to present that offence to the next Iustice of peace: and thereupon he ought to certifie the same at the next generall Sessions within the same Countie, 5.Eliz.cap.13. and 27.Eliz.cap.11.

Highwaies.

The Occupio^r of any Iron worke, for every Load of Cole, or Myne, and also for every Tun of Iron, that he shall cause to be cartied in any yeres (between the 12. of October, and the first of May) by the space of one mile in the high wayes within the wealds of Suffex, Kent, or Surrey, shall for euerie thre such loads, & also for euerie such Tun pay to the Iustice of peace dwelling nere to the places in that Countie where the high waies shall be most annoied, or to his assignes, thre shillings in money: the same (in default of such paiement, to be leuied by distresse by such Iustice, or his Assignes

Highwaies.

of

of any the goods of the partie.

And such occupiour for euerie 30. leades of cole and mine, or of either of them, and for euerie ten tunnes of Iron, caried in the said highwaies, betwixens the 1. of May, & 11. of October, in any yere, shall lay one load of Synder, granell, stone, or chalke in places to be appointed by such Iustice, or else shall pay within eight daies after demand, at eueries such Iron wozke, ii. s. for euerie such load, to the hands of such Iustice, who upon default of payment, shall leuie the same by distresse: the same moneies to be likewise bestowed by such Iustice upon & same highwaies, at his discretion. And such Iustice may verely (within 40. daies next after May day) assigne the places for bestowing the said Synder, Granell, Stone, Chalke, or moneies therfore, 39. Eliz. c. 19.

Disabled
Souldiers.

In default of the Parishioners & Churchwardens, that shall not taye the Parishioners towards the reliefe of disabled Souldiers, any Iustice of the peace dwelling in that Parish, or (if none dwell there) in the parts next adjoining, may assele the same: and may also (in default of the Churchwardens and Constable) leuie the same by distresse to be sold, 43. Eli. c. 31. Jac. 2. 35.

Hedgebreakers,

The Iustice of Peace where the hedge or pale breaker, cutter of cozne or wood, robber of Orchard or Garden, & such like is apprehended, or the offence is committed, may upon the testimony

testimonie of one sufficient witnesse vpon oath
cause the offender to pay damages, or to bee
whipped by the Constable, 43. El. cap. 7.

The Justice of Peace, of, or nere the place,
where the Seafaring man (suffering shipwreck
and not hauing to relieue himselfe homewards)
both land, may giue him a testimoniall vnder
his hand, conteyning the time and place of his
landing, with the place of his birth or dwelling
to which he is to passe, and with a conuenient
time for his passage thither. By which he may
accordingly passe in the vsuall and direct waies
thither, and aske and take reliefe, 39. El. cap. 4.
1. lac. cap. 25.

Seafaring
men,

The Justice of Peace, in, or nere the place
where any idle and wandring Souldier or ma-
riner (comming from his Captaine from the
seas or from beyond) both land, ought (vpon re-
quest) to giue him a testimoniall vnder his hand
expresling therein the time and place of such his
landing, with the place of his dwelling or
birth, to which he is to passe, and with a conue-
nient time therein limited for his passage thi-
ther. And the Justice of peace, next adioyning
to the place, or direct way, where any Souldier
or Mariner (comming from or beyond the seas)
landeth or trauelleth, and maketh knowne his
pouertie, may licence him to passe the next and
direct way to the place whither he is to repaire,
and may limit him time necessarie onely for his
trauell

Souldiers
and mariners
to begge.

trauell thither : which licence if hee pursue, hee may aske and take (without danger) for his necessarie reliefe in such his trauell, that which any persons shall willingly giue him, 39. Eliz. cap. 17. 1. Jac. cap. 25.

Northern
Cloathes.

One Iustice of Peace, of the Shire or Riding next adioyning to any Citie, Borough, or Towne Corporat, beyond the River of Trent where Northerne Cloathes be made, may also ioyne with them of such Citie, Borough, or Towne Corporat, in appointing the yearly Duersters for such cloathes, &c. 39. Eliz. cap. 10.

Now forasmuch as this second booke (concerning the power of one Iustice to be exercised out of the Session hath great varietie, and is thereby growne somewhat long, I will hereto (for his ease) annex a summative and short table by which hee may suddenly and at once (as it were) behold whatsoener he alone (out of the Sessions) may take vpon him to accomplish,

A Recapitulation of all that which one
Iustice of the Peace may doe
out of the Sessions.

Suretie of the Peace.

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Make the alleys for Souldiers, Make testimoniall,
and give licences to them, and to Mariners 307

Whosoever our Justice of the Peace is not (in
the execution of any of these Statutes) to sit
downe and rest himselfe upon my short collecti-
on or note of them, wherein (howsoever I have
observed some substance of the matter) the
whole manner of the doing in circumstance,
could not bee comprehended: But hee must al-
waies (for his more assurance) fly vnto the A-
brogement of the Statutes, or rather to the
booke of statutes at large, and thereby line out,
and leuel his whole proceeding. For, as in the
penning of Law, each word is (or ought to be)
of weight and value: So, neither will this vo-
lume containe them wholly, nor the skill of any
is able, sufficiently to abide them, but that he
shall bee wzong to the substance, and body of
the Law, which cannot speake plainly, except
it speake fully and alsogether.

The

THE THIRD BOOKE

conteyning the Practique of two
(or moe) Iustices of the peace
out of the Sessions.

What things any two Iustices of
the peace may do, out of the Sessi-
ons : And therein first of
Riots, &c.

CAP. I.



He authoritie and power
of one Iustice of the P.
(without the Sessions)
thus perused and passed
ouer, let vs now examine
the like power of two,
both in generallitie, and
particular.

It is vniuersally true, that whatsoeuer thing
one Iustice of the Peace alone is permitted to
doe, either for the conseruation of the Peace, or
in the execution of the Commission (or Sta-
tutes) the same also may bee no lesse lawfully
performed by two (or moe) Iustices: except it be
in a verie few cases, where some Statutes doe
seeme specially to appropriate the execution
thereof

therof to some one certeyne Iustice, either in respect that he is next to the place, eldest of the Quorum, or such like.

The power of
two Iustices
of the Peace
in punishing
of riots, &c.

But we will proceed by particularities: and because the first place of right belongeth to the Peace (wherin the office of this Justicier chiefly consisteth) and so that also we have (in the 5. chapter of the 2. booke) disclosed what an unlawfull assembly, rout, and riot bee, to the end that one Iustice (which hath some portion of power in them) might thereby understand, what it is that he ought to prevent, or stay in that behalf) for the custodie of the Peace: let vs supply in two Iustices, that power in punishing those riots, routs, and unlawfull assemblies, which we said before to be wanting in one: and that we shall the better do, if we first of all lay open the statute of King Henry the 4. concerning a most ample authoritie, as well for the suppressing, as for the recording of the same, and then may we adioyne somewhat out of some other statutes also,

IF any Riot, Assembly, or Rout of people against the Law be made, the Iustices of Peace or three, or two (or the least) of them, and the Sherife (or Vndersherife) of the Countie shall come with power of the Countie (if need be) to arrest them, and shall arrest them, and shall have power to record that which they shall finde so done

done in their presence against the Law. And by that record, such offenders shall be convicted, in manner and forme as is coneyned in the Statute of Forcible entries (viz. 15. R. 2. cap. 3.) And if such trespassers bee departed before there coming, then these Iustices of Peace, or three, or two of them, shall diligently enquire within a moneth after such riot, assembly, or rout made and thereof shall heare and determin according to the Law of the Land: and if the truth may not be found in the maner as aforeseid, then within a moneth then next following, the said Iustices & Sherife (or vnder sherife) shall certifie before the King and his Councel, all the deeds and circumstances thereof: which certificate shall bee of like force as the verdict of twelve men, &c. And if such offenders doe traaverse the matter so certified, then the certificate and traaverse shall bee sent into the Kings bench, to be tried and determined, as Law requireth. And that the Iustices of the Peace, dwelling most nighest in euerie Countie, with the Sherife, or vnder sherife, shall doe execution of this Statute, euerie one vpon paine of 100. li. to be paid to the King, as oft as they shall be found in default, 13. H. 4. cap. 7.

Wherupon the Statute 19. H. 7. addeth, *Maintenances*
that if the said riot, rout, or vnlawfull assembly, *embracerie.*
be not found by the said Iurie, by reason of any maintenance, or embracerie of the said Iurors: then the same Iustices and Sherife, or Vnder sherife shall also certifie the names of the
maine

maintainers, and embracers in that behalfe (if any be) with their misdemeanors that they know vpon paine of euerie of the said Iustices and Sherife (or vnder sherife) to forfeit twenty pound (if they haue no reasonable excuse) for not certifying the same: which Certificat so made, shall be of like force as before, &c. And euerie person duely proued to be a mainteynor or embracer in the same, shall forfeit twenty pound to the King, and shall be committed to ward, there to remaine by the discretion of the Iustices, 19. H. 7. cap. 13.

Assistance

Hereunto also the statute (2. H. 5.) adioyneth further, That the Kings liege people (being sufficient to trauell) shall be assistance to these Iustices, Sherifes, or Vnder sherifes, when they shall be reasonably warned, to ride with them in aide to resist such Riots, Routs, and assemblies, vpon paine of imprisonment and to make fine and rancome to the King. Prouided alwaies, that the said Iustices, Sherife, or Vnder sherife, shall doe their said offices at the Kings costs, in going, tarrying, and returning, by payment thereof to be made by the Sherife, by Indenture betwene him and them, of the said payment. And that such riottors (attainted of great and haynow riots) shall haue one whole yeeres imprisonment at the least, without being let out of prison by baile, mainprise, or in any other manner, during the yeere aforesaid; and that the riottors (attainted of peite riots) shall haue Imprisonment as best

At the Kings charges.

Attainted of riots

best shall seeme to the King and to his Counsell:
and that the fines of such riottors attainted, shall
bee by the same Iustices increased, and put in
greater summes, then they were wont to bee put
in such cases before that time, in aid and suppor-
tation of the costes of the Iustices and other offi-
cers aforesaid in this behalfe, 2. H. 5. cap. 8.

Now, if it be witnessed by two Iustices of the
Peace, and the Sherife, by Letters vnder their
Seales, to the Lord Chancellor of England, that
any murders, manslaughteres, batteries, robberies
assemblies of people in great number, in manner
of insurrection, or other rebellious riots haue
beene done, and that such offenders haue with-
drawen themselves, to the intent to avoid the ex-
ecution of the Common Law, then the Lord
Chancellour may make a Writ of *Capias* and
thereupon (if need be) a proclamation, &c. 2. H.
5. cap. 9. which statute was made to endure till
the next parliament, and so discontinued: but it
was renewed by 8. H. 6: and made perpetuall:
which moreouer, ordeyned, that (before this
Writ of *Capias* shall be awarded) two Iustices of
the Peace, and the Sherife of the Shire where
such riot is supposed, ought to wisnesse, that the
common voice & fame runneth in the said coun-
tie of the same riots, 8. H. 6. cap. 14.

The letter (or text) of these laws being thus
laid open, let vs also see what exposition and
helpe Sp. Marrow, and others doe bring to some
parts thereof, and especially to that of King
Henry

Capias and
proclamation;

Henry the fourth: as well for arresting the rioters, as for recording, enquiring, and certifying of the riot it selfe.

Some part of
the occasion of
the statute
25. H. 4.

Forasmuch as the power given by the Statute (17. R. 2. 8.) for repressing of great assemblies and riots, was deliuered with such coniunctiue, and generall wordes, viz. To the Sherrife and other the Kings Ministers, that it was often doubted, not onely who were meant by the word Ministers, but also whether the Sherrife and any of those Ministers (apart) might performe the seruice, or that they ought all to ioyne together therein: Therefore this statute (13. H. 4.) cleareth these questions, and putteth expresse power into the hands of any three (or two) Iustices of the Peace, and of the Sherrife (or vnder-sherrife) not only to arrest such rioters but also to commit them of their offences, by recording of that which they should see to be don against the Peace.

Power of the
Countie.

And this authoritie of assembling the power of the Countie, and of arresting, and imprisoning the rioters, was once befoze this time (namely, 1. R. 2. cap. 6.) committed to some: but it was by and by after (even in the selfe same yeres of the same King) resumed, as a thing ouer hard to be borne (that a freeman should be imprisoned, without an indictment, or other triall by his peeres, as *magna Charta* speaketh) vntill that the experience of greater evils had prepared

prepared, and made the stomake of the comon wealth able and fit to digest it.

Now whereas here is mention of the Power of the Countie: by vertue of these words, *Sp. Marrow* thinketh, that the Iustices of the Peace, Sherife, or vnderherife, ought to haue the aid and attendance of all knights, gentlemen, yeomen, labourers, servants, apprentices, and villaines: and likewise of Wardes, and of other yong men that be aboue the age of xv. yerres: because all of that age are bound to haue harnesse by the statute of Winchester. But women, Ecclesiasticall persons, and such as be decrepit, or doe labour of any continuall infirmitie, shall not be compelled to attend: for the statute (1. H. 5. cap. 8. which also worketh vpon the same ground) saith, that persons sufficient to trauell, shall be assistant in this service. And it is referred to the discretion of these Iustices, Sherife, or vnderherife, how many or how few they will haue to attend vpon them in this businesse: and how or in what sort also, they shall be armed, weaponed, or otherwise furnished for it.

But be it, that information be made to these Iustices and Sherife, or vnderherife, that certaine persons bee riotously assembled at Dale, and they doe thereupon gather people to suppress them, and when they come to the place, they find no riot there: yet are they excusable for

Information

for this assembly of power so made by them: because they did it by information.

And though they doe so much without any information, yet if they find a riot, when they come to the place, they shall not only be excused for calling together such companies upon their owne motion, but may also lawfully proceed to punish the offenders; Fitzh. titul. Iustice del Peace.

Arrest.

And this they ought to doe by arrest, if they be present in the execution of which arrest, they may also iustifie the beating, wounding, or killing of any of the riotters that shall resist it. So if they meete with the offenders in their way riotously armed, and coming from the place they may neuertheless arrest them for their unlawful assembly: and after this arrest so made the power of the Country ought to aid the Sherife for conveying the riotters vnto the Gaole: without which the arrest were but nugation. And in this point it differeth (by the opinion of *Sp. Marr.*) from the arrest of a felon by hue and cry: for their (saith he) when they haue once deliuered the felon vnto the Sherife, they are no longer compellable to waite vpon him.

The record of the riot, & the credite thereof

The arrest thus made, these Iustices, Sherife, or Under Sherife, ought to make a record in writing of that which they see and find: the which (since it is a coramtion in it selfe against the offenders) ought to be formal land certain as well for the time, and place, as for the number

bet, weapon, manner, and other circumstance. For the parties shall bee concluded thereby, and shall not be receined to traaverse or denie it: because the view of the riot (as *Sp. Fitzh.* saith) is not to be traaversed. Inasmuch as if either they doe recoꝝd, that they saw a riot, where in truth there was none at all, or that it doe afterwards appeare by the recoꝝd it selfe, that the act which they recoꝝded doth not amount to a riot, yet be the parties without any remedie. And if a man be bound to the Peace, and afterwards such a recoꝝd of a riot is made against him and other, he shall neither iustifie (as *Sp. Marr.* holdeth) nor plead not guiltie in a *Scire facias* upon his Recognisance.

If therefore a man be slaine, or mained, or a rescousse be done to the officer, by such a riot, then the recoꝝd ought to be, *Riotose occiderunt*, or *Riotose mahemauerunt*, or *Riotose recusserunt*, and not *felonice*, nor simply *recusserunt*: because their authoritie in this case is restrained to the riot onely: and extendeth not to the felonie, but so that the parties may (notwithstanding that recoꝝd) plead not guiltie to the felonie, or to the rescousse, howsoever (to the riot) they are estopped.

And this recoꝝd ought to remaine with the one of them, and they (and none other Iustices of the Peace) shall imprison the riotters, and asseesse their fine, Marrow: which fine they are willed by the statute (1. H. 5. cap. 8.) to put in
grea-

greater summes then they were woont to be pay in such cases, for supportation of the costs of the said Iustices, and other officers in this behalfe, as well in going and tarrying, as returning: whereof payment ought to be made by the Sherife, by Indenture thereof, betweene him and them.

But if the Riottors shall escape, after that these Iustices, Sherife, or Undersherife, doe come and see the riot, then can they neither arrest them at any other time (saith *Sp. Marrow*) nor a ward processe against them upon that record which they doe make: and then that record must be sent into the Kings bench, from which place Processe may be made upon it: which also the parties shall not be admitted to any transele, but must of necessitie make fine for their offence.

And now, if these Iustices, Sherife, or Undersherife, shall goe to see one riot, and then another riot falleth out in their presence, yet may they make a record of that: *Marr: So*, if they be assembled for some other cause of service, or for some private businesse (as for an arbitrement, or such like matter) and a riot happeneth to be committed in their sight, they may record it: *Marr.*

Likewise, if the rioters shall make a riot upon the Iustices, and Sherife, that doe come of purpose to arrest them from the former riot, they may Record that also, *Marr.* and so may they (as I thinke) record any riot that shall be done

done vpon themselves, whilest they be assembled for any other cause then for to suppress a Riot, though *Sp. Mar.* seeme to denie it.

These be the things that I haue obserued, concerning the execution of these parts of these Lawes, declared against vnlawfull assemblies, routs, and riots: whereunto I will adioyne a case or twaine, reported by *Sp. Fitzh.* and will then proceed as I promised.

If two Iustices of the Peace (without the Sherife, or Undersherife) shall see certeyne persons in doing any riot, they may cause them to be arrested, and may make a record of that offence, whereof the parties shall be for ever concluded, *Fitz. tit. Iust. del P. 9.* whereto he addeth (in his booke of Iustices of the Peace fol. 17.) that if two such Iustices shall make such a record (where in truth they saw no such riot) that yet the parties shall be estopped, and are without remedie.

How this record may be made without the Sherife, or Undersherife, since none other statute giueth this power of recording but this only, I cannot hitherto perceiue: vnlasse it be vnderstood of a riot committed in their presence whilest they bee sitting in Iudiciall place (as in their Sessions) or at the least done to their disturbance, when they bee comming vnto the Sessions: and so far in this way with him goeth the booke, 7. E. 4. 18. as well as that (14. H. 7.) which is reported by *Fitz. tit. Iust. del P. 9.*

The recording of a Riot, by the Iustices, and
Sherife, or Vndersherife, may be
after this (or the like
manner.)

Memorandum quod xx. die Ianuarij, anno regi-
ni Domini nostri Iacobi, Dei gratia &c. Nos
Edw. Hoby Miles, & Iohannes Leufson Miles,
duo Iusticiariorum dicti domini Regis ad pacem in
comitatu predicto, &c. assignatorum, & Martinus
Barnham adiunc vicecomes eiusdem comitatus, ad
grauem querimoniam & humilem petitionem A. B.
de C. in dicto comitatu Yel. man, in proprijs personis
nostris accessimus ad domum mansionalem ipsius
A. B. in C. predicta, ac tunc & ibidem inuenimus
D. E. F. G. H. I. de C. predicta Labourers, ac alios
malefactores & pacis dicti domini Regis perturba-
tores ignotos, ad numerum decem personarum modo
guerrino arraiatos, viz. gladijs pugionibus, galeis, la-
ricis, arcubus & sagittis illicitis & riotose aggrega-
tos & eandem domum obsidentes, & multa mala in
ipsum A. B. comminantes, in magnam pacis dicti
domini regis perturbationem, ac populi sui terrorem
& contra formam Statuti in Parlamento domini
Henrici nuper Regis Anglia quarti, anno regni sui
decimo tertio tento editi & promisi. Ac propterea nos
prafati Edw. Hoby, & Iohannes Leufson, &
Martinus Barnham prafati D. E. F. G. H. I. &c.
tunc & ibidem arrestari ac proxima gaole dicti
dom. Reg. in comitatu prafato duci fecimus per
suu

*sum & recordatum nostrum de illicita congregatio-
ne & riotta predict. conuictos, ibidem moraturat
quousque finem dict. dom. Reg. proinde fecerint. In
cuius rei testimonium huic presenti recordo nostro
sigilla nostra apposuimus. Datus apud D. predict.
& anno primum predictis.*

And the Wittimus, for conueying the Riot-
toys to the Gaole, may be easily (with a few
words of change) framed out of that which is
before in the chapter of Forcible entries.

Enquire of
the Riot.

But now, as the Lawes haue layed downe
this order of proceeding against the Riottors
that shall be apprehended in their offence: So
haue they also provided, that if the offenders be
gone, yet their fault shal not escape with them.
And therefore, these Iustices are commaunded
first, to enquire of that by others, which they
and the Sherife or vndersherife, did not see and
find: and if the truth may not thereby be found,
then to certifie what be the impediments.

To this enquire, the Sherife or vndershe-
rife be not associated, as they were before in at-
testing the riotors, & recording their disorder:
because they are now ministers for returning
of the enquire, and therefore to be spared from
being Iudges therein.

And albeit these Iustices doe not goe to see
the riot, as this statute biddeth, yet may they
enquire thereof within the moneth after.

Every Juror of this Inquiry ought to haue lands in that Countie to the value of xx. s. by yere, of Freehold, or xxvj. s. viij. d. of Copihold or of both, aboue all charges : vpon euerie of which also the Sherife ought to retorne xx. s. in issues at the first day, and xl. s. at the second day, 19. H. 7. c. 13.

Moreover, where the statute saith, that the same Iustices shall enquire, yet if any other Iustices of the Peace there (and not they) shall doe it, that will suffice, Marr.

Neither is it of such necessitie to haue the enquire within the moneth, that for default thereof the presentment shall be void, for the Iustices of the peace may enquire thereof at any time by force of their Commission : but if it bee not within the moneth, euerie of them that be the next, is in danger to lose C. li. for it. And therefore if these Iustice do charge the Iurie within the moneth, and doe giue day vnto them for yielding their presentment after their moneth, the statute is not offended by it, Marr.

But if it happen the parties to fall to an accord amongst themselves, so as none of them will sollicite the Iustices to make the enquiry : yet ought the Iustices to proceed *ex officio*, as knowing that either some of the Iurie may haue knowledge of the fact, or that (vpon Proclamation made to giue euidence for the king) some other persons may come forth ready to enforme them.

The truth of the matter being found by this enquire, these Iustices haue authoritie by this statute not only to make out proces against the offenders vnder their owne Teste, but also to commit them to prison till they make their fine and to deliuer them after payment of the same, or vpon sureties taken for it : or otherwise to receiue their trauctse, and thereupon (if the matter will so serue) to discharge, and dismisse them.

For, to all these effects (as I thinke) the wordes of the statute (heare and determine according to the Law of the Land) doe lead and inable them.

On the other side, if by this enquiry the fault be not brought to light, being hindered either by the malicious peruersitie of the Iurores, or by the vnlawfull maintenance, countenance, or embaycery of other men that put themselves into the cause: yet ought there (within one moneth after such enquiry) a certificat to be made as well of the names of the principall offenders and of so much of the fact, and circumstances thereof, as may by any waies or meanes appeare, as also of the names of such maintainers and embaycers, and of their misdemeanors in this behalfe. Certifie the Riot.

And here the Sherife (or his Under Sherife) is once more called to this seruice, and loyned with these Iustices, who by reason of his presence at the enquiry, may both help to clype the

will, and adde force and credit to the certificat. The end of which certificat, is but onely to put the offenders to answer.

For, although the words of the statute doe make the certificat equal in force with the verdict of twelue men: yet, forasmuch as it followeth in the same statute, that the certificat may be trauersed, that is a plain p^{ro}ofe, that it is no conviction at all, but is onely of the nature of a declaration, p^{re}sentment, or indictment, at the Common Law: and therefore also, it ought to comprehend the certaintie of the time, place, persons, and other circumstances, though perhaps (as *W. Marrow* holdeth) it needeth not to expresse the additions of the parties, as not being within the words of the statute (1. H. 5. c. 5) because no p^{ro}cesse of outlawrie doth lye vpon it.

And, whereas the enquire is good, though it be had after a moneth from the offence committed, this certificat (saith *Mar.*) is not good, vnles it be made within the month after the enquire: because the power of certifying is given by the statute only, which is the warrant that they must pursue.

Moreover, where the statute willesh that they shall certifie before the king & his council: it seemeth to me, that the same ought to be done either to the body (and words) of the p^{ri}ncie committed, or into the Star-chamber at the least, because the statute it selfe doth by expresse words distinguish

distinguish the King and his countell here both from the Chancery, and from the Kings bench which in many other cases bee taken for the King, and his countell also. And this I doe the rather note, because I haue read of certificates of this kind, sent by Iustices of the Peace into the Star-chamber, and for that it is penall to those Iustices, Sherifes, or Undersherifes, if they shall not addresse their certificat, as the statute doth appoint them.

But now, if two Iustices, and the Sherife goe to see a Riot, and other two Iustices make the enquire: then the one sort or the other of them (with the Sherife or Undersherife) may make the certificat, Mar. And if foure Iustices the Sherife, and Undersherife goe to see a riot, and two of the Iustices and the Sherife ioyne in one certificat, and the other two and the Undersherife ioyne in an other certificat, then the certificat wherunto the Sherife is partie, shall be preferred: because the authoritie of the Undersherife, is overshadowed by the Sherifes owne presence, Mar. But otherwise, if two certificates be equall, then that shall bee preferred which is best for the king.

And the same rule must hold, where the enquire and certificat shall disagree: for, if the enquire shall find that the riot was made by xij. persons, where in truth it was made by 100. or if the enquire be of twelue persons, and the truth is that those xij. were harnessed: or if the

Indictment be of a riotous assault only, and the rioters did both make an assault, and did beat & wound: in these and the like cases, the certificat may well be made so, as the omission in the enquire shall be supplied by it, Mar. Hotweib (he saith) that if they shall varie onely in the day, then the Indictment shall be preferred.

And if after the enquire, and before the certificat, the Sherife die, or one of the Iustices be put out of the Commission, no Certificate can then be made, Mar. But if the riot were recozded by the Iustices, and Sherife, and the Rioters do escape, yet may that Iustice of the peace (so put out of the Commission) ioyne with the other Iustice and the Sherife, in their certificat of the same, Marr.

These speculations of *pp. Marr.* readings, are like enough to fall in practise, and therefore I thought it not amisse to acquaint the Reader before hand with some of them.

The paine of
C. li. vpon the
Iustices

There remaineth yet the last branch of the Statute (13. H. 4.) that willet the Iustices of P. (most nigh in euerie County, to the place where such riot or rout shall bee) to doe execution of this Statute, vnder the paine of 100. li. vpon euerie of them for euerie default. Upon which words these notes may be gathered: First, that no Iustice of the P. (dwelling out of the countie where the riot is) can bee charged, although he be the next vnto the place: Secondly, that if any other Iustices (that bee not next vnto the place)

place) shall execute the statute, then that will excuse those Justices that bee the next, because they all haue power by the first part of the statute.

And this is the cause for which I haue taken leaue to place these things before, vnder the authority of any two Justices generally, although the statute doth specially (and that by a greater paine) bind them that be the next. Yea, all the Justices of peace (within the Commission and countie) ought to supply the default of the next Justices if they haue notice of such vnlawfull assembly, rout, or riot: for, so was it lately adjudged in the Star-chamber: howbeit that penalty of C. li. was there laid vpon the next Justices only, and the residue were fined by the discretion of that court, according to the exigencie and temper of their fault.

Thirdly, it is to bee gathered, that if one or two of the Justices of the peace (that be next to the place) shall come to execute the statute, and the Sheriffe or Under-sheriffe, do not come at all, yet those Justices shall be excused for their C. li. And Mr. Marr. thinketh that in this last case, the Justices bee bound to send for the Sheriffe or Under-sheriffe, and not they for the Justices: and in the same case also it seemeth that the Justices shall be fined, if they arrest not the riotors or do not morouer all that which without the Sheriffe or Under-sheriffe, they are herein by any way authorized to performe.

Lastly,

Lastly, that they shall doe execution of this Statute, that is to say, of all, and euerie part therof respectiue as to such Iustices, Sherife or vnderherife, is thereby appointed. But whether they are to take notice of such riots at their peril, or may safely expect the information thereof, I find it both doubted and vndecided, Collect. Dyer 110, 25,

Thus much of these things after this consideration: now to some Presidents for the furtherance of these Iustices in the execution, and then to our other matters.

The Precept to the Sherife, for Enquirie vpon a Riot, may beare this forme.

Michael Sodes Miles, & Mathew Hadde Armig. duo Iusticiariorum, &c. assignatorū vicecomiti eiusdem comitatus, Salutem: Ex parte dict. dom. reg. tibi precipimus, quod venire facias coram nobis apud I. in comitatu predicto xxix. die Ianuarij proximo futuro xxiiij. probos sufficientes, & legales homines de comitatu predicto, quorū quilibet habeat terras & tenementa, infra dictum com. liberi tenementi per chartā, ad annuū valorem xx.s. aut per copiam Rotulorū curie ad annuū valorē xxvi.s. & viij. d. aut per vtrūq; ultra omnes repositas: ad inquirendū pro dicto domino reg. ac pro indemnitate vestra in hac parte super sacramenti suū de quibusdam

dam illicitis aggregationibus & riotis apud C. in
com. pred. nuper commissis ut dicitur. Et hoc nulla-
tenu omittas sub pena xx. li. quā incursum es si in
executione premissorū defeceris. Et habeas ibi tunc
nomina Iuratorū pred. & hoc præceptū: Datum sub
sigillis nostris xx. die Ianuarij, anno regni dicti dom.
nostri Jacobi, &c.

The entrie of the Presentment (or Enquire)
may haue this forme.

Inquisitio pro dom. rege &c. (as before of Forci-
ble entries) corā M. Soudes Michie & M. Had, Kane,
Qui ad hoc iurati & ovetati, dicunt super sacramen-
tum suū pred. qd D. E. F. G. & H. I. simul cum alijs
malefactoribus, & pacis dicti dom. reg. perturbato-
ribus ignotis (ad numerum septē personarum) modo
guerrino armati, vi & armis, viz. Humberdis, gla-
dijs, arcubus, & sagittis, xx. die mensis Ianuarij, ul-
timo præteritū, apud C. in com. pred. inter horas viij.
& ix. post meridiem eiusdē diei, domū mansionalem
A. B. de C. pred. Ycoman secernatū in C. pred. rote se
fregērunt, & intraverunt, & in ipsum A. B. tunc &
ibidē insultū fecerunt, ac ipsum tunc & ibidē verba-
raverunt, vulneraverunt, & indignis modis tratta-
verunt, ita qd de vita eius desperabatur, tamquam
pacis dicti dom. reg. perturbatū & populi terrōrē,
ac contra formā statuti de riotis, ventis, & congre-
gationibus gentiū illicitis in Parliam. dom. H. nuper
reg. Anglij. an. regni sui xij. tenore promissi & editi.

And

And as for the Certificat (which ought to be made to the King and the Councell) that may be done in English, by way of a letter, comprehending the truth of the matter present, as the case shall require.

And here, let vs leaue these vnlawful assemblies, routs, and riots, and addeſſe our ſtile to other ſtatutes.

Servants
and Labourers.

Any two Juſtices of the Peace, vpon complaint, that any ſervant retained by the ſtatute departeth beſore the end of his terme, or at the end thereof without a quarters warning : or that any perſon (compellable by the ſtatute to ſerue) doth reſuſe to ſerue for the wages appointed, may examine the matter (and finding ſuch ſervant or perſon ſauſty) may commit him to ward, there to remain, till he ſhall be bound to the pattie offended, to ſerue and continue according to the ſtatute.

They alſo may impriſon for tenne daies, the maſter that giueth, and for twentie daies the ſervant that taketh more wages then after the rates thereof made : and may impriſon for a whole yeere, ſuch ſervant as ſhall be convicted beſore them (by his owne confeſſion, or by the oathes of two honeſt men) to haue made any aſſault vpon his maſter, or miſtreſſe, or other perſon hauing the charge of him, or of the worke: and they may appoint any woman (being unmarried of the age of twelue yeeres, and

under foztie) that is out of service, and whom they shall think meet to serve, to be reteyned by their discretion, and may upon her refusall commit her to ward, till she will be so bound to serve, 5. El. c. 4.

Any two Iustices of the Peace may make testimoniall to a Servingman, that is turned away from his master, or whose master is dead 14. Elizab. cap. 5. & 18. Eliz. cap. 3. & 27. Eliz. cap. 11.

Any two Iustices of the P. may give assent to the Churchwardens, and Overseers, or to the greater part of them, to bind (as Apprentices) the children of poore parents, till the age of the manchild of xxiij. and of the woman child till xxi. 39. Eliz. cap. 3.

Any two Iustices of the Peace may dispose of the monies rising by the deceitfull stretching of the Northern cloathe, 39. Eliz. cap. 10.

Any two Iustices of peace may by warrant under their hands and seales, cause to be levied (by distress and sale of the goods of the offender) all fines and forfeits, that shall grow by the confession of the offender, or by proofe of two lawfull and sufficient witnesses, before them, upon this statute of rogues, 39. Eliz. cap. 4. See 1. Jac. cap. 7.

Any two Iustices of Peace may send to the house of Correction, there to be dealt with as a sturdy Rogue, such person able to worke, as shall

shall threaten to run away, and leaue his family upon the Parish, the same being proued by oath of two witnesses, befoze such I. Iustices: vnlesse hee can put in sufficient sureties for discharge of the parish, 7. Iac. cap. 4.

Alhouse

Any two Iustices of Peace may giue allowance, for urgent and necessarie occasions, to remain in an Inne, diuallling house, or Alhouse. 1. Iac. ca. 9.

Putting

Any two Iustices of Peace may duely commit by two witnesses, or by the parties Confession, any person that shall disobey the restraint of Malting, made (against) in the open Quarter Sessions, and shall commit him to prison, without Baile or Mainprise for thre daies, and untill that hee become bounden in pl. l. to some one Iustice to perfoyme such restraint, 39. Eliz. cap. 16.

Quere of this (against) I think it should be out.

Licence to goe to Bath or Buckstone.

Such two Iustices may licence diseased persons (liuing of almes) to travell without begging to Bathe, or to Buckstone, for remedie of their griefe, 39. El. cap. 4. 1. Iac. cap. 25.

Change a high way

By the oversight of any two Iustices, and twelue discret men of the Hundred and Hundreds adioyning, any person (within the weald of Kent) may make in his owne land a new high way, more commodious then the old, 14. H. 8. cap. 6.

Appoint ouersers of clothe.

Two such Iustices may once euerie yere appoint Ouersers (for that whole yere following) of cloth to be made, or sold, in any Towne (not

(not being corporat) and may charge them by
on their oathes, to see execution of some parts
of the statute, 3. Ed. 6. c. 2. yet in force.

The Doctet, Carder, Rember, Spinnster, and **Clothier**
Weauer, imbeſelling any part of the Woll or
parne delineted him, and his receiue, may be
conuicted befoze two Juſtices of peace by con-
feſſion of the partis offending, or oathe of one
witneſſe: which Juſtices may appoint ſatisfac-
tion to the partis grieved: and if the partie of-
fending bee not by the ſaid Juſtices thought a-
ble, or doe not make ſatisfaction accordingly, he
is to be whipped, or ſet in the ſtockes: And ſuch
two Juſtices haue full power to miniſter the
ſaid oathe, and finally to heare, end, and deter-
mine the offences againſt this act, 7. Ia. c. 7.

Within ſix daies (after accusation had, that **Disturbe a**
any perſon hath diſturbed a **Preacher**, and af-
ter his committing to ſafe cuſtodie by one Ju-
ſtice of the Peace) one other Juſtice of the ſhire
muſt toyne with him in the examination of the
offendo, and may proceed to find him guilty by
his owne confeſſion, or by two witneſſes, and
thereupon commit him to the next Gaole, for
thre moneths, 1. Mar. Parl. 1. cap. 2. Aſke of the
continuance of this ſtatute as befoze.

The offences againſt the ſtatute, 1. Jac. c. 27. **Felants;**
in deſtroying any Felant, Partridge, Houſe, **Partridges;**
done, &c. or taking, or deſtroying the egges of **&c.**
any Felant, Partridge, or Swanne, or tracing
Hares

Hares in the Snow, or destroying them with Hare pipes, cords, &c. being proued before any two Iustices of Peace, by the parties confession, or oath of two witnesses, the offender may be by them imprisoned three moneths, without baile or mainprise, unless he forthwith pay to the use of the poore, for euery Fesant, &c. and for euery egge of Fesant, Partridge or Swans, and for euery Hare taken or destroyed, contrarie to this Act, xx. s. or after one moneth after his commitment, become bound with two sufficient sureties in Recognisance of xx.li. a peece to the kings use, before any two Iustices of Peace, neuer after to commit the like offence. Which Recognisance must bee returned to the next quarter Sessions, to remaine there of Record. And in like maner they may deale with offenders in keeping Greyhounds, setting Dogges, or nets, contrarie to this statute, unless the partie offending pay as aforesaid, and to the use aforesaid, xl. s. i. lac. cap. 27.

See 7. lac. cap. 11. that the poore of taking Fesants, or Partridges, with setting dogs and nets, or other nets, snares, or engines, may bee by oath of one witnesse: and that on payment of xx. s. for euery Fesant or Partridge, the offender shall be bound in such Recognisance as abouesaid. And See by the same statute, taking of Fesants and Partridges, in the day time, allowed to some persons, on their owne strahold, 7. lac. cap. 11.

Any

Any two Iustices of Peace may giue warrant vnder their hands vnto the Constable or Headborough, to search the houses of persons suspected, for setting dogges or nets, other then such as are allowed to take Fesants, and Partridges by this Statute, 7. Iac. cap. 11.

Untimely
hooking at

All the offences against the said Act, 1. Iac. cap. 17. may be examined, heard, punished, and determined, and euerie thing, requisite for due execution thereof, performed, by two Iustices of Peace out of the Sessions, 1. Iac. c. 17.

The offences of destroying Fesants or partridges with Hawks or dogges, betwene the first of Iuly, and last of August, being (within six monethes after such offence done) confessed, or proued by oath of two witnesses, before two Iustices of Peace, they may commit the offender to the Gaole for one moneth without baile or mainprise, vnles he forthwith pay to the vse of the poore xl. s. for euerie such hauking, and xx. s. of euerie Fesant or Partridge destroyed, 7. Iac. c. 11.

Fesants or
Partridges.
Setting dogs
or nets.

Any two Iustices of the Peace of the county, where any of his Maiesties subjects (not being a Iesuit, Seminary priest, or other priest Religious, or Ecclesiasticall person, &c. now being, or which hereafter shall be of, or brought by in any Colledge of Iesuits, or Seminaries shall arrive within six moneths next after proclamation to be made in that behalfe in the city

Iesuits and
Seminaries
Colledge.

of London, vnder the great Seale of England) may within two daies next after such returne, receiue his submission, vnder the oath set forth by Act in the first yere of the reigns of the late Quene Elizabeth, 27.El.c.2.

Submission
if one reconciled to the
See of Rome

Any two Iustices of Peace of the Countie where hee doth arrine may take the submission of any person reconciled to the See of Rome, within five daies after his returne into the Realme, and minister the Oath set forth, 1.El.cap.1. and the Oath of Allegiance set forth in this Act: And are to certifie the same Oathes so taken at the next quarter Sessions, vpon paine of xl.li.3.lac.cap.4.

Oath of Allegiance.

Any two Iustices of the Peace may take the said Oath of Allegiance of such persons as haue charge of Castles, Fortresses, Blocke Houses, or Garrisons, and of Captaines bearing charge of Soldiers within this Realme: And on refusall may commit the offender (being of the age of xviij. yeres) to the common Gaole, without baile or mainprise, till the next Assises, or generall quarter Sessions, 7.Iacob.cap.6.

Subsidie.

If any person that ought to bee set to the Subsidie, doe by his craft or conine escape the Taxation, and that bee proued before two Iustices of Peace of that Countie: then shall he be charged at the double value of so much as he ought to haue bene taxed at, and shall suffer

ther bee punished at the discretions of the said Justices, 7. Iac. Reg. and diuers former Actes of Sublidies.

The Maioz, Bailifes, head Officers, and Justices of Peace of euerie Citie, Borough, Towne Corporate, and places Privilleged, or any two of them, may asseſſe the Inhabitants thereof, and Lands and Tenements therein, at such reasonable taxes, as they shall thinke fit, for reliefe of poore persons infected with the Plague, and dwelling in houses infected; to be leuied, by their warrant, of his goods that refuseth or neglecteth to pay the said taxes: and in default of goods, and one refusall to pay, the said Maioz, Bailifes, head Officers, or Justices, or any two of them, may by like warrant commit the offendour to the Gaole without Baile or Paineprise, untill hee satisfie such taxation, and the arcerages thereof, 1. Iacob. cap. 31.

Upon certificat by the Maioz, Bailife, head Officers, and Justices of Peace, of such Citie, Borough, Towne Corporate, or place Privilleged, or any two of them, of the vnabilitie to relieue their infected, to any two Justices of Peace of the Countie, or, or nere to the said Citie, &c. the same Justices of the Countie may take the Inhabitants within five miles of the place infected at such reasonable weekly

rates, as they shall thinke fit : to be lenied by warrant of any such two Iustices of Peace of the Countie, by sale of goods, and in default thereof by imprisonment, as aforesaid, 1. Iac. cap. 31.

If such infection bee in a Bozough, Totowne, corporat, or priuiledged place, where there are no Iustices of Peace, or in a Village : Then any two Iustices of Peace of the Countie may take as aforesaid, the Inhabitants within five miles of the place infected, to be lenied as aforesaid, 1. Iac. c. 31.

And such Iustices of Peace may appoint Searchers, Watchmen, Examiners, and Writers for persons and places infected with the plague, minister vnto them Oathes for performance of their Offices, and giue them other directions, after their discretion, 1. Iacob. cap. 31.

Popish Recusants.

Any two Iustices of the peace may require any Popish Recusant (not making submission according to this statute) to abiure the Realme vpon his corporall oath before them, 35. Eliz. cap. 2.

Search for popish bookes, &c.

Any two Iustices of Peace may search the houses and lodgings of euerie Popish Recusant conuict, or of euerie person whose wife is a Popish Recusant conuict, for popish bookes and reliques of Poperie : And if any altar, pictures, beads, pictures, or such like Popish reliques, or bookes

bookes bee found, as in the opinion of the said Iustices shall be thought meet for such Rescousant to haue and vse, the same shall bee presently defaced and burnt (if it bee meete to bee burned) And if a crucifix or other relique of any price, the same is to be defaced at the generall Sessions of Peace, and restored to the owner, 3. Jac. cap. 5.

What things some two Iustices of the Peace may doe out of the Sessions : And therein of
Bailement.

CAP. II.

In falleth out many times, that the statute lawes regarding some Iustices aboue others, either for the opinion of the abilitie or learning that they should haue (being of the Quorum) or for the aduantage and facilitie that they haue to dispatch the affaire, by meanes of their nearness and dwelling, or for the indifferencie that they are likely to vse in the handling of the cause (as being neither of kindred, nor alliance to any of the parties) doe many times make choise of some two Iustices: and doe either altogether close the hands of the rest, or else doe

3 3

chiefly repose the trust in these that be so chosen and elected.

Bailement.

Amongst those of this kind, the statute for bailement of prisoners worthily craveth the first place, whether you respect the weight of the matter that it concerneth, or the length of the discourse that it requireth: the one tending to desired libertie, & the other comprehending much varietie.

Difference
between baile-
ment, main-
prize, & reple-
vin.

This saving then (or deliverie) of a person out of prison, before he hath satisfied the Law, is uttered by three termes in our statutes, that is to say, Bailement, Painprize (or manucaption) and Replevin. And they be indifferently used, to expresse that suretie which the prisoner is to find in such a case. For that which Bracton and the statute West. 1. cap. 15. (made 3. E. 1.) do speak of, setting at libertie of accessories by the words *Replegiari*, and of setting out by sufficient Plein, Britton, and the Register doe expresse by finding of Painprize; that statute 5. E. 3. c. 8. by letting to baile: that of Marl. ca. 37. (made 5 1. H. 3) by *tradi in ballium vel replegiari*: And the statute of 2. E. 3. cap. 9. making mention of the writ *De homine replegiando* to be directed to the gardein of a Forest, declareth the effect thereof to be, that he should Replevin the prisoner by good Painprize: The statute 23. H. 6. c. 10. that commaundeth the Sherife to let out of prison (such as he hath arrested vpon Indictments of Trespasse) vpon reasonable sureties

suretie of sufficient persons, calleth the same a letting to baile or mainprise : And 1. & 2. P. & cap. 13. saith to make all the three words *mainprise*, and of the same signification.

Nevertheless it saith that Repleuin had his originall of the word Pledges, which denoteth them that undertake for the partie, that he shall abide to be iustified by Law : And it is used in diuers other cases, as in Repleuin of cattell vpon a distress, Repleuin of franchises in a *Quo warranto*, Repleuin of Land vpon a *Grand cape*, in old time, and repleuynge of the person of a man in case of villenage. Repleuin.

Bailement is deriued from the French tearme Bailier : and that also cometh of the *Greeke βαλειν*, they both signifying, to deliuer into hand. For hee that is bailed is taken (or kept) out of prison, and deliuered (as it were) into the hands of his friends as sureties for him, whereof also the word *Mauincapio* (or *Mainprise*, which is all one) giueth good evidence : the one mentioning the deliuerie, the other the receiuing of such a prisoner. And in this respect, the booke of the Roymen Customs calleth Bailement a line prison : for that the partie thereby becommeth prisoner to his friends, that doe undertake for him.

But Bailement and Mainprise haue bene taken to differ in the practise of our Common Mainprise.

Law : for he which is properly bayled by the Iustices of any Court, hath bene neuertheless reputed to be a prisoner there still, and his sureties to bee (as it were) his speciall gardeners : otherwise it hath bene thought of him that is let to mainprise, as may bee seene by the *Booke Cases*, 33. Ed. 3. & 36. Ed. 3. *Corone Fitz.* 12. & 13. 7. H. 6. 42. 31. H. 6. 10. 38. H. 6. 23. 9. Ed. 4. 2. & 11. H. 7. 33. But at this day, how long he shall be adiudged to be a prisoner, *Et in custodia Marecalli Marescalcie*, &c. that is bayled in the Kings Bench, the custome of the Court it selfe must rule the matter: for it differeth some what (if I bee not deceined) from those opinions.

Howbeit for as much as in our course (concerning Iustices of the Peace) it is not so needfull to stay vpon the difference betwene the words as to proceed to disclose the use and manner of the thing : let vs examine the power of the Iustices of Peace in this behalfe.

It seemeth, that Iustices of the peace might (after the statute, 34. Ed. 3. cap. 1. that made them comp'eat Judges) haue letten to baile such persons as were endicted of felonie befoze them in their Sessions, euen as the Iustices of the Kings Bench vse to doe : but not such as were arrested for suspicion of felonie, and not indicted thereof befoze them, because befoze the indictment they were no Judges ouer them. And for helps herein, it was ordeyned (1. R. 2. cap. 3.)

cap. 3.) that euerie Iustice of Peace might let to baile any suspected of felonie. But that Law begat some inconueniences, and therefore it was some after repealed (by 3. H. 7.) which left power to two Iustices of the Peace (the one being of the *Quorum*) to let any prisoners (mainepernable by the Law) to baile, to the next generall Sessions, or the next Gaole deliverie: and willeth that they shall then certifie such baile taken, vpon paine to forfeit for euerie default (thereupon recorded) x. li. to the King, 3. H. 7. cap. 3.

And here againe there sprang vp an other inconuenience: for then Iustices of Peace would not stick to beproove one an others name (as many yet still doe) and by that meane defraude the good meaning of the statute: whereupon it was lastly prouided by 1. & 2. P. & M. as followeth.

That no Iustice, nor Iustices of peace, should let to baile any person contrarie to the said Statute of West. 1. cap. 15. And that no person, being arrested for manslaughter, or felonie, or for suspicion of either of them (beingailable by the Law) should be bayled by any Iustice of P. if it be not in open Sessions, or by two Iustices of the Peace at the least (the one of them being of the *Quorum*) and the same Iustices to be present together at the time of the bailment, and that they shall certifie (in writing, subscribed, or signed with their owne hands) the said bailment

Bailment of
prisoners, and
examination
before they be
bailed;

or mainprise, at the next generall Gaole deliuerie, to bee holden within that Shire where that person shall be arrested, or suspected: And that the said Iustices, or one of them (being of the *Quorum*) when such prisoner is brought before them for manslaughter or felonie, shall before any bailement, take the examination of that prisoner, and the information of them that bring him, of the fact and circumstances thereof: and the same, or so much thereof, as shall be materiall to proue the felonie, shall put in writing before they make that bailement: which examination and bailement, the said Iustices shall certifie at the next Gaole deliuerie, within the limits of their Commission: And the said Iustices shall haue authoritie by this Act, to bind all such by Recognisance (or Obligation) as do declare any thing materiall to proue the said murder or manslaughter, offences, or felonies, or to be accessaries or accessaries to the same, as is aforesaid, to appeare at the said next Gaole deliuerie, where the triall thereof shall be, then and there to giue euidence against the partie, at the time of his triall, and shall certifie all and euerie such bond in like manner, as is abouesaid of the bailement and examination, 1. & 2. P. & M. c. 13.

This statute of Bailement, I haue purposely recited at large, because it both comprehendeth some such other things as must concur with the bailement of the prisoner, and also prouoketh me to set downe the statute of W. 1.

and

and to shew what persons are baileable by the Law: so; to either of these it referreth it selfe (as you haue seene) and is also restrayned by them.

Now by the statute of West. 1. cap. 15. Prisoners that be before outlawed, or haue abiured; prouers: felons taken with the maner: those that haue broken the Kings prison: notorious and proclaymed thieues: those that are appealed of prouers, so long as the prouers be liuing (if they be not of good fame:) those which are taken for felonious burning, or for falsifying the Kings Money, or his Seale: or which are taken vpon Excommunication, or for open euill, or for treason touching the King himselfe, or for death of a man, or by the commaundement of the King himselfe, or of his priuie Councell, or by the absolute and not ordinarie commandement of the Kings Iustices, or for the Forrest: be not repleuissable by the common Writ (nor without Writ) by Sherifes, nor other Gardeins of prison. But he that is taken for light suspition: or is indicted of petie Larcenie (not being guiltie before of other Larcenie) those that be charged with the receipt of thieues, or felons, or of commanding, or force, or aid: or charged with trespass, that toucheth not losse of life, nor member: and he that is appealed by a prouor (being no common thiefe, nor defamed) after the death of the prouor, is baileable by the Statute.

Persons
baileable and
not.

Againe,

Again, the statute 23. H. 6. cap. 10. prohibi-
 reth those that be in prison by condemnation,
 execution, *Capias utlagatum*, excommunication:
 for suretie of the Peace, or by speciall comman-
 dement of any Iustice, to be bayled, by Sherife,
 Keeper of prison, or other Officer or Minister:
 But willeth and commandeith, that all those that
 be arrested by force of any Writ, Bill, or War-
 rant in any Action personall, or because of any
 indictment of Trespas, be let out of prison, vpon
 reasonable sureties of sufficient persons, hauing
 sufficient within the Counties where they be to
 be let to baile or mainprise, to keepe their daies
 in such places as the said Writs, Bills, or warrants,
 shall require.

Both these last statutes (as appeareth) were
 at the first made to giue a rule vnto Sherifes
 and other Officers, as well for the letting to
 baile, as for the retorning of their prisoners.
 But as the statute of West. 1. is by the expresse
 letter of 1. & 2. P. & M. set forth as a line wher-
 by the Iustices of Peace are to guide them-
 selues: so it seemeth to me, that they ought to
 haue an eye vnto the other statute also: for as-
 much as certaine other persons be therein also
 mentioned not to be baileable by Law, and so
 within the reach of the very words that lye in
 the statute of P. & M.

And first, this statute 1. & 2. P. & M. seemeth
 to distinguish these words (Death of a man)
 that are read in the statute of Westminster 1.

and

Baile for
 manslaughter.

and in this place to restraine them to murder only : seeing that it admitteth, that (the) some death, or manslaughter) the slayer may be lawfully bailed : which also is the common practise in that behalfe.

We learne also, that he which (within the yere) is acquitted of murder or manslaughter, at the Kings suit, must be remitted to prison, or let to mainprise til the end of the yere, and the partie grieved, may in the means time commence his appeal, 3. H. 7. c. 1.

It seemeth mozeouer, that he which is indicted of felonie, is not baileable, lib. Ass. 41 pl. 30 mo he which confesseth the felonie whereof he is accused : for that statute (West. 1.) meaneth to exclude the one, when it saith, that he which is indicted of petis larcenie, may be bailed: and the other, when it denieth baile to a Prisoner, who must begin with confession of his owne fault, before he may be admitted to burthen another man.

And if a man be taken upon Process of Rebellion, issuing out of the Chancerie or Star-chamber, those Iustices of Peace may well be thought void of discretion, that shall take upon them to baile him.

Further, we thinketh that I may set downe this as a rule (suen at the common Law) concerning Bailements. That the Iustices of the peace cannot meddle with the Bailement of any prisoner, except he be prisoner for such a cause, whereof

whereof the Iustices of Peace be competent Judges : which also was the cause, that one Justice of the Peace could not by force of the Commission only, haue hayled suspects of felonie, before that they were indicted thereof, as I haue told you. For out of their Sessions, and before indictment, they were no Judges of such a matter.

And on the other side, it seemeth that two Iustices of the Peace (the one of them being of the Quorum) may out of the Sessions, baile such as come into prison by the Proces of the Sessions made vpon penall Lawes, not forbidding baile: because two such Iustices be competent Judges of all those matters, inso much as they may heare and determine them.

Baile concerning bailement.

Sundrie doubts (I confesse) may bee made concerning the businesse of Baile, which I am not able to dissolue, and therefore not much willing to moue. Only this I will say for all, that it becommeth Iustices of the Peace to be veris circumspect in granting Baile, both for feare of wrong by denying it to him that is replevisable: and for feare of danger to the seruice it selfe by giuing it where it is not grantable.

And therefore I aduise them to consider first whether the power of Baile (when it is required) bee not taken from them by some of those former recited Statutes : and then, whether that particular Statute it selfe (against which the prisoner is charged to offend) doe not specially

ally prohibit the baile : for you shall meet with many statutes, which doe not onely take baile from the offenders thereof, vpon their solemaⁿ contidion after iudgement, but also vpon the Record of some one or two Iustices of the P.^e or by examination, or p^roofe by witnesses, or such other p^rinat triall, had before them.

For example, take a few of each kind, seeing it would p^roue troublesome to report them all.

1 He that is conuicted before the Iustices *Lineries* of the Peace, vpon the statute of Lineries, shall bee committed to prison for one whole yeere, without baile or mainp^rise, saith the Statute, 8.H.6.cap.4.

2 He that is conuicted before them, for abusiⁿg a licence of transporting victuall, shall likewise be committed by them, and shall remaine there a whole yeere without baile or mainp^rise 1.& 2.P. & M.c.5.

3 He that is conuicted before them for off^rending the statute made against *Foreshalling*, &c. shall bee committed to the Gaole for two monthes without baile or mainp^rise, 5.Ed.6. cap.4.

4 And hee that is conuicted before them for *Spuffing*, offence against the statute of Spuffers, shall be awarded to remaine in prison without baile or mainp^rise, till he haue payd the forfeiture, 4.& 5.P.& M.c.3.

1 Again, if any one Iustice of the Peace *Games* shall finde, or know any to haue exercised any vnlaw^{fu}

vnlawfull games, he may commit him without baile or mainprife, till he will become bound no more to vse vnlawfull games, 33. H. 8. c. 9.

Defendant.

2 So he that is convicted befoze two Iustices of the peace to haue refused to serue for such wages, as is by order appointed, shall remaine in prison without baile or mainprife, till he will be bound to serue accordingly, 5. El. c. 4. and the like is of some other points in that statute.

Defendant.

3 He that is committed by two Iustices of the peace, for keeping a common Alehouse, of his owne authoritie, shall remaine in prison thre daies, &c. without baile or mainprife, 6. Ed. 6. c. 25.

Defendant.

4 And the reputed father or mother of a bastard child, that will not performe the order set downe by two Iustices of the peace thereto authorized shall be committed, and shall remaine in prison without baile or mainprife, till he or she will be bound, &c. 18. El. c. 3. & 27. El. c. 11. 1. 1. 1. 2. cap. 25.

The most of the rest shall onely bee pointed out, that the Iustices may in a sort bee warned of them, thus shortly.

Prophecies.

Witchcraft.

Periurie.

Service.

Scholemasters

Preachers.

Tithes.

5. Eliz. cap. 15. touching Prophecies
1. 1. 2. cap. 12. concerning Witchcraft
5. El. c. 14. of Periurie
1. El. c. 2. touching Common prayer
23. El. c. 1. touching Scholemasters
1. Mar. c. 3. of disturbing Preachers
27. H. 8. c. 20. & 32. H. 8. c. 7. of Tithes

2. Ed.

1. Ed. 6. c. 2. of <i>Souldiers</i> selling harnesse	<i>Souldiers</i>
12. H. 8. c. 5. of <i>Collectors</i> for <i>Bridges</i>	<i>Bridges</i>
13. H. 8. c. 9. of <i>Aliens</i> , conueying long <i>Bowes</i>	<i>Bowes</i> .
8. El. c. 3. of <i>transporting</i> <i>Sheepe</i>	<i>Sheepe</i> .
5. El. c. 21. of taking <i>Fish</i> , <i>Deers</i> , <i>Hawkes</i>	<i>Hawkes</i> .
5. El. c. 5. of <i>eating</i> <i>Plashe</i>	<i>Flesh</i> .
9. H. 5. c. 8. Parl. 2. of <i>false</i> <i>Weights</i>	<i>weights</i> .
1. Mar. c. 12. & 1. El. c. 16. of <i>Rebellious</i> <i>assem- blies</i> .	<i>Assemblies</i> .
1. H. 5. c. 8. of great <i>Riots</i>	<i>Riots</i> .
13. H. 8. c. 2. of <i>Collectors</i> of <i>Gaole</i> <i>money</i>	<i>Gaole money</i> .
15. El. c. 1. touching <i>Recusants</i>	<i>Recusants</i> .
5. Ric. 2. c. 2. of <i>Forcible</i> <i>holding</i>	<i>force</i> .
13. El. c. 21. of <i>Purueyance</i> <i>neere</i> to the <i>Vniuer- sities</i> : and 13. H. 6. c. 14. of <i>Purueyors</i> of <i>Noblemen</i>	<i>Purueyors</i> .
1. & 2. P. & M. c. 5. of <i>carrying</i> <i>Corne</i>	<i>Corne</i> .
43. El. c. 2. for refusing to contribute to the <i>Poore</i> , or to account, &c.	<i>Poore</i> .
139. El. c. 11. touching <i>Logwood</i>	<i>Logwood</i> .
139. El. c. 10. vpon restraint of <i>Malting</i>	<i>Malt</i> .
1. ac. c. 27. for destroying <i>Fesants</i> , <i>Hares</i> , &c.	<i>Fesants</i> , &c.
1. Jac. c. 31. for refusing to pay taxes to relieve of persons infected with the <i>Plague</i>	<i>Plague</i> .
1. Jac. c. 4. for refusing to take the oath thereby appointed for <i>Recusants</i>	<i>Recusants</i> .
3. Jac. c. 5. for refusing by a <i>Recusant</i> to declare what armor he hath, or distributing the de- liuerie thereof	
3. Jac. c. 13. for vnlawfull <i>Hunting</i> in inclosed <i>grounds</i>	<i>Hunting</i> .

Oath of Al-
legiance.
Hawking.

7. l. c. 6. for refusing the Oath of Allegiance
7. l. 11. for Hawking, and destroying of Par-
tridges.

And so, if there be any other setw, wherein
Iustices of the Peace may not graunt Baile,
though otherwise they haue to deale : for all
others (that be not of that sort) I doe willingly
pretermit.

Now for an end of Bailement, I will shew
you one forme of a Baile, and another of the
Liberate.

Kent.

Memorandum quod xx. die mensis Iulij, Anno
regni Domini nostri Iacobi &c. Venimus
coram nobis Thom. Robertes, & Henr. Lindley,
duobus Iusticiariis, &c. assignatorum, apud H.
incomit. prad. A. B. & C. D. de E. in dicto comitatu.
Yeomen, & ceperunt in ballium, usq; ad proximam
gaolam deliberationem in dicto comitatu tenendam,
quendam F. G. &c. Laborem, captum & detentum,
in prisona pro suspitione cuiusda felonie &c. Et as-
sumserunt super se, scz. cuiuslibet prad. A. B. & C. D.
sub pena xx. li. bone & legalis monete Anglia, &
prad. F. G. assumpsit pro seipso sub pena xl. li. similis
monete de bonis & catellis, terris & tenentis eorum
quorūlibet, & cuiuslibet eorū ad opus dicti dom. re-
gis, Haredū & successorū suorū lenandū si pre-
sentis F. G. ad eand. proximam gaolam deliberationem persō-
naliter non cōparebit corā Iustic. dicti dom. r. g. ad
dictam gaolam deliberandū assignat. ad standū rellū

*de felonis praed, & ad respondendum disti dom regis
eius & ibide de & super omnibus quae illi obysien-
tur, Datum sub sigillis nostris, die & anno primo
supradictis.*

Iohn Bishop of Rochester, & Timothy Low
two of the Iustices of &c. To the keeper of
his Maiesties Gaole in Maidston &c. greeting:
Forasmuch as F.G.&c. Laborer, hath before vs
found sufficient mainprise to appeare before the
Iustices of the gaole deliuey at the next general
gaole deliuerie to be holden in the said countie,
there to answere to such things as shall be then
on the behalfe of our said Soueraigne Lord ob-
iected against him, and namely to the felonious
taking of two Sheepe (for the suspition whereof
he wastaken and committed to your said gaole)
we command you on the behalfe of our said So-
ueraigne Lord, that (if the said F.G.do remaioe
in your said gaole for the said cause and for none
other) then you forbear to grieue or deteyne
him any longer, but that you deliuer him chence
and suffer him to go at large, and that vpon the
paine that will fall thereon. Yecouen vnder our
Seales, this xx. day of Iuly, &c.

**The Libe-
rals.**

The authoritie of some two Iustices of the
Peace goeth yet further: For two Iustices of
the Peace (the one being of the Quorum) may
prohibit, and remone common Ale selling, and
may also allow the same, taking bond with sur-
tie by Recognisance for good rule, to be kept in

The Iudges.

such Alehouse, &c. by their discretion. And they may also commit and imprison (for thre daies) those that keepe common Ale-selling of their owne heads, against prohibition, or without allowance thereof, and may after take Recognisance of them with two sureties that they shall keepe none. 5. Ed. 6. c. 25.

And here seeing that the order of the Conditions of these bonds is partly referred to discretion, I will (for the better bydeling of these nurseries of naughtinesse) leane with you the forme of them, which I have knowne practised by that honourable Iusticer, the late Lord William Cobham, Lord warden of the fine Ports, Lord Chamberlaine of the late Queene Elizabeths household, & one of His priue Councill.

Alehouse.

THE Condition of this Recognisance is such: Whertas the within bounded A. B. admitted and allowed by the within named Lord Cobham, and J. Lenejon Knight (two of the Queenes Maiesties Iustices of the Peace within the Countie of Kent within written) to keepe a common Ale house, or Tipling house, and to vse common selling of Ale, or Beere, onely within the now house of him the said A. B. (and not elsewhere) situate in the high streete of the towne of M. within written, and called the signe of the Hart: If therefore, he the said A. B. during such time as he shall keepe such common Ale. house there, shall not suffer any vnlawfull play, at the

Tables;

*For wherle
place is not
mett.*

Tables, Dice, Cardes, Tennise, Bowles, Closh, Coytes, Logers, or other vnlawfull games to be ysed in his said house, or in his garden, orchard, or other his ground or place : Nor dresse, or cause, or suffer to be dresse any flesh to be eaten vpon any day forbidden by the Lawes or Statutes of this Reahmes of England : Nor willingly and willingly admit, or receiue into his said house, or any part thereof, any person notoriously defamed, of, or for theft, incontinnencie, or drunkennesse, or that shall be before hand notified to him the said A. B. by the Constable or Borsholder of M. aforesaid, for the time being or by the Deputie of them, to be an vnmeet person, to be receiued into a common Alehouse: Nor keepe or lodge there, any strange person (aboue the space of one day and one night together) without notice thereof first giuen to the Constable, or Borsholder, or the Deputie of the one of them there : And finally, if the said A. B. during all the time that he shall keepe common selling of Ale or Beere in the said house, shall and will there yse and maintaine good order and rule : then this present Recognisance &c. or else &c.:

In some Shires, the Iustices of the Peace doe condescend vpon certaine Articles, framed by their discretions, and generally to be propounded to all common Ale sellers, taking the bond for perfoymance of the same Articles, a

copies wherof they do vsually deliuer to every of them, which maner is allowable also, though not so assured as the former.

Weights and measures.

Two Justices of the Peace (so that the one be of the Quorum) may (by examination, or enquire) heare & determine the faults of head officers in cities, boroughes, & market townes, that doe not twice yearly view and examine weights & measures, and breake and burne the defective: as also the defaults of buyers & sellers by other weights and measures then they ought to doe: and may breake and burne the defective weights and measures, and amerce and fine the offenders by their discretion, and make Prozesse against them as if they were endicted of trespassse against the peace, 11. H. 7. c. 4. & 12. H. 7. c. 5.

Oath of Under Sheriffe.

Two Justices of y^e Peace (the one being of the Quorum) may take the oath of the Under Sheriffe of their Countie (before that he meddle with the exercise of that office) as well touching the Supremacie declared in the act, 1. Eliz. as touching his offence, set forth 27. El. cap. 12. And the like may they doe, for the like Oathes of Bailiffs of franchises, deputies & clarkes of Sheriffes and under Sheriffes, and of every other person that shall take upon him to intermeddle with the returning of Jurors, or with the execution of Prozesse in any Court of Record, 27. El. c. 12.

Hospital.

The Bishop and his Chancelloz, shall call the

Two Justices of the Peace next inhabiting to any Hospitall, to assist them in taking the account of such as have had the collection of the revenues and profits of such Hospitall: and they thre may charge the accountant (under penaltie to lose such summe of money as they shall thinke mete) to account, and not to delay it, and sojthwith to employ the Surplusage to the use of the Hospitall, 14.El.cap.5. & 39.El. cap.18.

Two Justices of the Peace (the one being Bastard child of the Quorum) in, or next to the limits where the Parish Church is, in which a bastard child (left to the charge of the Parish) shall be born, ought to take order by their discretion, as well for the reliefe of the Parish, and keeping of the child, as also for the punishment of the mother and reputed father thereof, 18.El.cap.3.1.lac. cap.25.

Two Justices of Peace (the one being of the Tithes Quorum) upon complaint by any competent Judge of Tithes, for any misdemeanour of the defendand in a suit of Tithes, may cause him to be attached, or committed to ward, till hee find suretie unto them by Recognisance to the Kings use, to obey the Prozesse and sentence of that Judge, 27.H.8. cap.20. & 27.Eliz. cap.11.

And also upon complaint in writing by an Tithes Ecclesiasticall Judge, that hath given definitive sentence in case of Tithes against one

(which wilfully refuseth to pay the Tithes any summes of monie so aduindged) two such Iustices may cause the partie to be attached, and committed to the next Gaole: till he find such Sureties (as is afore said) to performe that sentence, 32. H. 8. c. 7.

**Assesse the
Townes,**

After execution had for the partie robbed against the men of the hundred, and upon complaint made by them so charged, two Iustices of the Peace (one being of the Quorum) of the same Countie, inhabiting within the said hundred, or nere vnto it where any such execution shall be had, may assesse and take, ratably and proportionably by their discretion, all and enerie the Townes, Parishes, Villages, and hamlets, as well of the said Hundreds, as of the liberties within the same towards an equall contribution to bee had for the reliefe of them, against whom such execution was had, 27. El. cap. 13.

Highwayes.

Two Iustices of Peace (whereof one to be of the Quorum) which were present at the Session, wherein any person was convicted for any offence against the Statute of highwayes, within the Weald of Kent, Surrey, or Sussex, may make warrant for leuying the forfeits thereof, to any officer: and they also may appoint by their discretion such waies and meanes to leuie the doubles for not paying these forfeits within twentie daies next after lawfull demand of the same by such Officer, 39. El.

Eliz. cap. 19.

Any two Iustices of Peace haue power to **Rogues.**
heare and determin all causes, that shall grow
in question by the Statute of Rogues, 39. Eliz.
c. 1. l. c. c. 25.

Two Iustices of Peace, of, or nere the **Souldier or**
place to which a Souldier, or Harrier com- **Harriers.**
meth with the Testimoniall of one Iustice of
Peace, shall take order by their discretion for
setting to worke, or relieuing of him, if he
cannot of himselfe get worke there, or employ
himselfe in lawfull course of life, 39. Elizabeth.
cap. 17.

Two Iustices of Peace dwelling next any **Cloth.**
Citie or Towne, where any retailer of wollen
Cloth shall present vnto them any defectiue
Cloth against this Statute (being conferred
with the Statute 4 & 5 P. & M. cap. 5.) shall
cause the same to be cut into three equall parts
whereof the one to be to the King, the other to
the Presentors, and the third to the Iustices
themselves, 5. E. 6. c. 6.

No Fisherman shall be taken to serue as a **Fishermen,**
Harrier by the Kings Commission but by
the choise of two Iustices of the Peace, adioy-
ning to the place where he is to be taken, 5. El.
cap. 5.

Two Iustices of the Peace (not being of **Within the**
kindred, alliance, counsell, or sic, to the Lord or **fourth part of**
owner of a wood) appointed by the more part **a wood.**
of the Iustices of peace at their Sessions, vpon
com

complaint of the Lord made vnto them, diuide and set out the fourth part of it, if the Lord and Commoners thereof (being first called befoze them) cannot agree vpon it, 35. H. 8. cap. 17. & 13. El. c. 25.

Amerciaments
in the County
& citie.

Two Iustices of the peace, whereof the one to be of the Quorum (appointed by the Custos Rotulorum, or by the eldest of the Quorum, in his absence) are to ouerse, and controule the Sherifes bookes and amerciaments: and the estreats of the said amerciaments, are to bee made by the Indenture betwene them, and the Sherife or vndersherife: and to be sealed with their Seales: And they may vpon suggestion make proceſſe as in an action of treispass against the offenders of that statute, to answer befoze them, 11. H. 7. c. 15.

The Peace.

Two or more Iustices of the Peace (whereof one to be of the Quorum) dwelling in, or nere the Parish, or diuision where the Parish is, must nominate yearly in Easter weeke, or within one moneth after Easter vnder their hands and seales, iij. iij. or ij. Substantiall householders in euerie Parish to be ouersers of the poore of the same Parish. And the Churchwardens and Ouersers of euerie Parish, shall with the consent of two or more such Iustices of peace set the poore on worke, and take euerie inhabitant and occupier of land there towards the same, and to bind children Apprentizes. And the excuse of the Churchwardens & ouersers

ſweep ſo: not executing their office, is to bee allowed by two ſuch Juſtices of Peace. And ſuch two Juſtices of Peace are to take their accounts yearly, and to commit them that reſuſe to account.

And two ſuch Juſtices of Peace may take any other of other Pariſhes within the Hundred, to contribute to a poore Pariſh. And may make out their warrant to the Churchwardens and Overſeers of euerie Pariſh, to leuie the taxations, by diſtreſſe and ſale of the offenders goods: And in defect of diſtreſſe, may commit the partie reſuſing to contribute, to the common Gaole, without Baile or mainprile.

And they may do the like concerning penalties and forfeitures committed, 43. El.c.3. la. cap. 25.

The offences of Clothiers, or other, in not paying ſo much wages to their Weavers, Spinſters, &c. as ſhall be rated according to this Act, being confeſſed by the offender, or proued by two ſufficient witneſſes beſore two Juſtices of the Peace (whereof one to be of the Quorum) the perſon offending ſhall forthwith ſtand convicted thereof: and the forfeitures of ten ſhillings giuen to the parties grieved, may be leuied by diſtreſſe and ſale of the offenders goods, by warrant from the ſame Juſtices, 1. la. cap. 6.

The

Apprentices.

The yearly account (in Easter weekes) or within a moneth next after Easter day) by the Parsons, or Vicars, Constables, Churchwardens, Collectors, and Overseers of the poore, in Townes or Parishes not incorpoꝛat (appointed by this Act to haue the employing of money giuen for binding out of Apprentizes) may be made before two Iustices of the Peace, dwelling in or next to such Townes or Parishes, 7. lac cap. 3.

Require the Oath of Allegiance of any one of neighbors fathers of age.

Two Iustices of the Peace (the one being the Quorum) may require any person of eightene yeeres of age or above, convicted or indicted for Recusancie for not repaying to diuine service, or which hath not received the Sacrament twice within the yeere then next past: or any unknowne person passing through the Countie, confessing or not denying (being examined on oath) him or her selfe to be a Recusant, or that he or she receiued not the Sacrament as aforesaid (other then Noblemen or Noblewomen) to take the oath of Allegiance in this statute appointed, and are to certifie in writing at the next quarter Sessions the christen name, surname, and place of abode of euery person so taking the said oath, to be kept amongst the Records of the same Sessions. And such two Iustices of the peace may commit the person refusing to be examined vpon oath, or to take the said oath, to the common Goale, without baile or mainprise, till the next Assises

Assises of quarter Sessions, 3. lac. cap. 4.

And any two Justices of the Peace (where of one to be of the Quorum) may require any person of the age of xviij. yeeres or above (under the degree of a Baron or Baronesse) to take the oath of Allegiance: And on refusall may commit him to the Gaole to remain there without baile or mainprise, untill the next Assises, or generall quarter Sessions, 7. lac. c. 6.

And two such Justices, may commit to prison, without baile or mainprise, a married woman (under the degree of a Baronesse) convicted as a Popish Recusant for not coming to Church, which doth not within three moneths after such conviction conforme her selfe, and repaire to Church and receive the Sacrament 7. lac. cap. 6.

I married woman a Recusant.

*And here's also is place for those private Acts
wherein any power is given to two
Justices of the Peace;*

as:

5. E. 6. cap. 24. For the making of Coverlets, Rosbitch, and Dornikes in Norwich.

35. H. 8. cap. 11. For wages of the Knights of shires. Parliament.

11. H. 7. ca. 9. For Recognisances to be taken of Lessees in Northumberland.

2. & 3. P. & M. c. 15. & 13. E. c. 11. & 27. E. c. 11. cap. 11.

- cap. 11. 1. lac. cap. 25. For prohibition of perturbances within five miles of either of the Universities.
- Kent & Suffex.** 14. H. 8. cap. 6. & 26. H. 8. c. 7. For laying out new highwaies in Kent and Suffex.
- Cardiffe.** 23. El. cap. 11. For the repayring of Cardiffe bridge.
- London.** 35. El. cap. 6. Touching new buildings and
- Westminster.** Inmates, in, and neere London and Westminster.
- Wilton bridge.** 39. El. cap. 24. For the making of the bridge at Wilton ouer Wye, in the Countie of Hereford.
- Nonfuch.** 3. lac. cap. 19. Nonfuch highway.
- Chepstow bridge.** 3. l. c. 23. For repayre of Chepstow bridge.
- Vpton bridge.** 3. l. c. 24. For repayre of Vpton bridge.
- Norfolke and Suffolke.** 7. l. c. 20. For recoverie of Marsh grounds in Norfolke and Suffolke.

What things three or moe Iustices
of the Peace may doe our
of the Sessions.

CAP. III.

The authoritie as well of any two
Iustices of the Peace genetally,
as of some certaine two Iustices
specially, being thus at some
length unfolded, it containeth, that (for an end)

we speake somewhat of thise, and the greater number.

Thise Iustices of the Peace (one of them being of the Quorum) may discharge out of prison any person committed thither for his offence in not declaring to a Justice (within foure and twentie houres) that he was moued to ioyne in any unlawfull assembly contrarie to the statute, 1. Mar. 1. Parl. cap. 13. & 1. Eliz. cap. 17.

It is requisite, that the certificat (that is to be made to the head Officer of a Citie or Towne corporat, where a child is to be put Apprentice to a Merchant, Mercer, Draper, Goldsmith, Ironmonger, Ambroderer, or Clothier; that the father or mother of such child may dispend xl.s. freehold by yeere) be under the hands and Seales of thise Iustices of Peace where the lands lie, 5. El. c. 4.

Four Iustices of the Peace with the assent in writing of the Bishop of the Diocesse, or of the Lieutenant, or Deputie Lieutenant of the Countie, vnder their hands and Seales, may giue Licence to a Recusant confined (by 35. El. cap. 2.) to travell about his necessaries business according to the limitation of the same licence (the partie licenced first taking his Oath that he hath truly enformed them of the cause of his journey, and that he shall not make any chafeleffe stay) 3. Jac. c. 5.

The

Money giuen
to the Pope,
high wayes,
or Bridges.

Deprane the
Sacrament
of the Lords
Supper

four Iu-
sts
Bridges.

Six Iustices
Gaol.

The Bishop and his Chancelor, and thre such Iustices of the Peace haue power to examine, how monie or other reliefe (appointed by King H. 8. or any other, to the vse of the poore, or of amending of highwaies or bridges) is bestowed, and to call to account the deteyners thereof &c. 14. El. cap. 5. & 39. El. c. 18.

It seemeth that thre such Iustices of the P. may out of the Sessions take information and accusation by the oaths of two honest persons against such as shall deprane the Sacrament of the body and bloud of our Lord and Sauer our Iesus Christ, against the Statute, and examine them what other witnesses were then by: and to bind them all by Recognisance, to giue in euidence at the day of triall, 1. E. 3. 6. cap. 1. but enquire of this matter.

four Iustices of the Peace (whereof one to be of the Quorum) may (where a decayed bridge is, and where it cannot be repaired who, or what lands be chargeable to the repaying thereof) take the inhabitants, make Collectors and appoint Overseers, for the amendment of the same &c. 22. H. 8. c. 5.

Six Iustices of the Peace, may in sundrie Shires take order for the common Gaol, whereof the Sherife shall haue the custodie, and to the which murderers and felons &c. shall be sent: and may doe and performe diuers incidents thereto by the Statutes, 23. H. 8. c. 2. 13. El. c. 5.

Six

Sir Iustices of the peace (two of them being *Sewers*, of the Quorum) may for a whole yeere after the expiration of any Commission of *Sewers* execute the Lawes of the Commissioners of *Sewers*, vntlesse that a new Commission of *Sewers* be published within the yeere, 13.El.cap.9.

To this title also doe these particular Statutes belong.

13.Eliz.cap.24.& 23.Eliz.ca.12. For pauing *Algate*. the Streete by *Algate*.

34.H.8. For establishing Iustices of the P. in *Wales* &c.

17.H.8.cap.5. For Iustices of Peace in *Cheshire* shire &c.

23.H.8.cap.2. & 5.Eliz.cap.24.& 13.Eliz. *Gaoles*; cap.25. For the appointing and building of *Gaoles* in sundrie shires.

18.Eliz.cap.20. For amending of Bridges *Oxford*. within fiue miles of *Oxford*.

18.Eliz.cap.10.& 27.Eliz.cap.16. For the re. *Shepey*. paration of the Ferrey called the Kings Ferrey in the Isle of *Shepey* in *Kent*.

27.Eliz.cap.22. For *Chichester* haven. *Chichester*.

3.Iac. cap.19. For the repairing of the high- *Nonestuch*. way from *Nonestuch* to *Talworth* in the parishes of *Ewell* and *Longditton* in *Surrey*.

3.Iac. cap.22. For pauing *Drury lane* and *Wyrie lane*. the Towne of *S. Giles* in the fields in *Middlesex*.

Chepstow
bridge.

3. Iac. 23. For making vp & repairing Chepstow bridge.

Upton bridge

3. Iac. cap. 24. For reedifying a Bridge ouer Severne neere Vpton vpon Severne in Worcestershire.

*Of the reward and punishment of Iustices
of the Peace, for things done, not
done, or misdone out of the
Sessions of the Peace.*

CAP. IIII.



Of reward and punishment (as said Solon) all Common weales do consist: For as the care of equitie and Justice wareth cold, vntlesse then be reward onely for vertue: So the negligence of euill men must needs be corrected by severity and chastisement of paines.

Reward.

And therefore, albeit the meaning of our parliament hath alwaies been, that choise should be made of such persons for this Office of the Peace, as needed no reward for their travell in that behalfe: yet to the end that they should with the more alacritie and cheerefulnesse proceed in their affaires, the Lawes doe now and then cast them a trifle, rather to let them know that they doe behold their well doing, then that themselves do stand in need of any recompence.

Wrote

Hereupon euerie Iustice of peace (sitting in execution of the statute of Labozers and Seruants) shall haue v.s. the day (so; thre daies together) out of the forfeitures that grow by the same statute, 5. El.c.4. Service

And if any person commanded by two Iustices of peace (to appeare to be made an ouerser to see the statute of Cloath-making kept) doe without reasonable excuse refuse to come, and to take vpon him that office, hee is to forfeit for euerie such refusall, 1r.s. and thereof, those Iustices are appointed to haue the one halfe by the statute, 3. Ed.6.c.2. Ouersers of cloath.

Whose two Iustices of the Peace also next adioyning, to whom any Cloth (faulcie against the statutes) shall bee presented, may cut the same into thre equall peeces, and shall haue to themselves the one of the same, by the Act 5.E. 6.c.6.& 4.& 5.P.& M.c.5. Faulty cloath

And euerie Iustice of the peace is allowed to retaine to his owne vse, the one moitie of all strangers goods, calling themselves Egyptians, that he shall lawfully seise, by vertue of the statute 22.H.8. c.10. Egyptians

The Iustices of the peace, that do loyn with the Clarke of the peace, in taking the consaunce of an Indenture of bargain and sale of land to be inrolled, shall haue 1j.d. therefore if the lands exceed not in value 1l.s. by the pere and 1j.s. vs. d. if it do exceed that value, by the statute 17.H.8.c.16. Inrolment of bargain and sale,

Riot.

The Kings Highnesse shall beare the costes that the Iustices of Peace shall sustaine in the execution of the statutes, 13.H.4 c.7. of Riots, &c. 2.H.5.c.8.

Forcible entry

And the Iustices of the Peace shall make execution of the statute of Forcible entries at the costes and charges of the partie grieved, 8.H.6. cap.9.

Alehouse

Twelve pence is given to the two Iustices of peace for taking enerie Recognisance of him that is allowed to keepe a common Alehouse, by the statute 5.E.6.cap.25.

**Helpe against
contentious
suits,**

And because many contentious persons by commencing of causelesse suites against Iustices of Peace and others for execution of their Offices, haue gone about to discourage them from doing their offices, they are (for their ease in pleading) allowed to plead the generall issue of Not-guilty, and to gine the speciall matter in euidence; and for their wrongfull veration double costes, 7.I.c.5.

Punishment.

On the other side also, the statutes doe nob and then correct the dulnesse of these Iustices, with some strokes of the rodde or spurre. And therefore generally, if a Iustice of peace wil not gine remedie to a partie grieved in any thing that he may heare, determine, or execute: then vpon complaint to the Iustices of Assise, or to the Lord Chancellor, hee shall not onely be put out of the Commission by the Lord Chancellor but

but shall also bee punished according to his demerits, 4. H. 7. c. 12.

And particularly, even at the first it was ordeyned, that if the Wardens of the Peace did not looke vnto the execution of the Statute against such as should ride or goe armed in any place, putting the Countrey in feare, then the Iustices assigned by the King, should enquire of their default, and punish them, St. North. 2. E. 3. c. 3.

The Statute of Riots, &c. 13. H. 4. c. 7. layeth C. li. forfeiture vpon those Iustices of Peace that shall dwell nighest to the Riot, &c. if they do not put that Statute in execution.

And those Iustices of the peace, and Sheriffe or vndersheriffe, which in sending their certificate to the King and his Councell (concerning such riot) doe not withhall certifie the names of the mainteyners and imbracers in that behalfe with their misdemeanors that they know, shall euery of them forfeit xx. li. vntles they haue reasonable excuse for not certifying the same, 19. H. 7. c. 13.

That Iustice of the Peace which seileth the gods of any Egyptians, and doth not incontinently restore such part thereof as shall be proued before him, to haue bene craftily or feloniously taken, shall forfeit the double thereof to such prouer, 23. H. 8. c. 10.

If any Iustice of the Peace shall take any bond (made for cause touching the King) in

name of the Justice himselfe; and not by the words, *Domino Regi*, he shall be imprisoned for so doing, 33. H. 8. c. 38.

Rebellious
assembly.

That Justice of Peace that doth not (after request therof made) give attendance upon the Kings Lieutenant of the shire, for the suppression of any Rebellion, or unlawfull assembly, shall suffer a yeres imprisonment, unlessse there be cause of reasonable excuse, 1. Mar. Parl. 1. c. 12. & 1. El. c. 17.

Worze

If any Justice of Peace shall be p:oued to be in default about the execution of the Act of the poze, by two sufficient witnesses befoze the Justices of Assise, at there next generall Gaol deliuerie, he shall lose v. li. 14. El. c. 5.

Gunnies and
Crossebowes.

The next Justice of Peace which faileth in presenting the name of him that presenteth it to him, according to the statute of shooting in Crossebowes or Gunnies, shall forfeit xx. s. 2. E. 6. c. 14. But enquire of the continuance of this, as befoze in the seventh chapter of the second booke.

Agnus Dei.

That Justice of peace, which doth not (with in fourtene daies after matter vttered to him concerning any Agnus Dei, &c.) signifie the same to some one of the Kings priuie Councell, shall incur the points of the Act, 16. R. 2. of P. rmonire, 13. El. c. 2. And that Justice of the peace, which after discoverie made vnto him by any person, that any Jesuit, Seminarie, or other Ecclesiasticall or Religious person (p:ofes

Jesuits.

sed

sed by any authoritie from the See of Rome) is abiding within any the Kings Dominions, shall not within eight and twentieth dayes then next following, give information thereof to some of the Kings private Councell, or to one of the Presidents in Wales, or in the North, shall forfeit for everie such offence, CC. markes, 29. Eliz. c. 3.

That Justice of the peace which (having taken any examination concerning plaints in the Sherifes Court) doth not certifie the same into the Eschequer within a quarter of a yere after shall lose xl. s. for his default, 11. H. 7. cap. 15.

Those Justices of the peace, which do grant any baile contrary to the Law, and doe not certifie the baile and examination of the felonie according to these statutes, shall pay such fine as the Justices of Gaole delinquent shall thinke meet, 1. & 2. P. & M. cap. 13; & 1. & 3. P. & M. cap. 10.

Every Justice of peace, that (dwelling within vij. miles of London) doth not (upon request) assist the Colledge of Physicians of London in the execution of the statute, 31. H. 8. c. 8. shall be punished, as one that runneth in contempt of the King, 1. Mar. c. 9.

Every Justice of Peace, that shall make default in the due execution of the statute made against the deceitfull stretching of Northern Cloathes and Kerries, made beyond the River of Trent, shall lose b. li. 39. El. c. 10.

Certificat in-
to the Esche-
quer.

Baile and
certific.

Physicians

Northern
Clothes.

Bridges in
Donmouth-
shire.

There is also a fine of xx.li. laid vpon euerie Justice of the peace in Donmouthshire, for his negligence in not repairing the Bridges of Newport, and Carlion there, 39 El.c. 23.

Not xx.li. in
lands.

And how that Justice of the Peace shall bee punished, that shall take vpon him the Office, not having verely xx.li. in lands, it hath appeared already, c. 6. in the first booke.

Overseers of
the poze.

If there bee no nomination of Overseers of the poze verely according to the statute, euerie Justice of the peace dwelling within the diuision shall forfeit to the poze v. li. 43 El.c. 2. 1. Jac. cap. 25.

The end of
the booke.

The Epilogue.

The epilogue

Thus much (so shortly as I could) I thought fit to say, concerning the authoritie of Iustices of the Peace, without the Sessions; wherein I haue rather sought to admonish the (by a sleight view & rehearsal for the most part) what things they haue to handle, then labored to accomplish them (with full skill) how to administer and execute them all.

Neither doth that skill and knowledge lie in my power, but in their own diligence: and must therefore be gotten by a continuall studie & painful meditation of the statutes at large: towards their helpe and furtherance wherein, I long since increased Master John Tindall of Lincolns Inne, to take the paines to cull out all those Statutes by them-

themselves, which were in force, and wherewith-
all Iustices of the peace had to meddle: not alto-
gether beheading them of their preambles: nor
any whit curtailing them of their words: nor o-
therwise dismemb'ring or scattering their parts
in sunder: But laying forth the bodies of them,
whole and at large, vnder their proper titles, to-
gether with the materiall parts of their pream-
bles: and not without any of their p'ouises:
therewithall amending the corruptions of the
English translation out of the Latin and French:
and finally adding vnto them (where need is)
some notes of helpfull direction. Which things
no other man (that I know) hath hitherto assai-
ed. All which is so marked out in *Mast. Rastals* A-
bridgement, as every man (that will) may easily
enjoy the benefit. And I doubt not, but that (for
the absolute accomplishment of so seruiceable a
worke) God will hereafter giue him both minde
and meanes, to confer and rectifie the whole vo-
lume of those imprinted lawes, according to the
originall & autentique Records: then the which
I know not any labour, either more auailable to
the Students of the Law, or more necessarie for
such as haue any charge thereof, in the adminis-
tration of the Common wealthe.

The

The fourth Booke, intrea-
ting of the Sessions of the Peace,
and of things incident, or
belongeth therunto.

The Proheme.

IT may peradventure seeme, that ha-
uing already stood long in matters
that were of the lesse importance,
and such as might bee dispatched at
home *sine strepitu*, I will bee now both long and
tedious when I beginne with those of greater
weight, and which do require the solemn bench
and figure of Iudgement.

But, as at the first I thought it meete to helpe
most, where most need was: I meane, where one
or moe Iustices (pressed with the necessitie of
time, and destitute of the assistance of their Of-
fice at home: So now, knowing that at the Sessi-
ons of the Peace, there be commonly many Iu-
stices in number, and (amongst them) sundrie so
well instructed in law, as in being too busie with
that which belongeth thereto, I shall as the sa-
ying is, but *set a candle in the Sunshine*; and rather
bewray want in my selfe, then bring helpe or
light vnto them: I purpose to run ouer this resi-
due more swiftly, except in a few places, where
either the profit or necessity (or both) of the mat-
ters themselues shall begge licence, and procure
pardon for me.

The

The Description of the Sessions of the Peace.

C A P. I.



So a man that hath recei-
ued hurt in his body by
a stroke wherof he bla-
deth freshly, wil be con-
tented for the present,
to admit the helpe of a-
ny meane Leech or Chi-
rurgion (comming next
to hand) for the stanching of his blood, and bin-
ding vp of the wound : and yet would moze
gladly haue vsed the conference of diuers ex-
pert Chirurgions for doing the same, if the dan-
ger of the hurt would haue granted the time
that will be lost in calling them together : euen
so the common Counsell of this Realme, fin-
deth that the body thereof may bee deeply
wounded in some one member, and perceiuing
that certaine evils must be resisted at the veris
first (lest otherwise they grow past helpe, and
were incurable) hath many times thought it
good to commit to one, or to a few Iustices of
the peace (for that they bee readie, and at hand)
the stopping of the blood (as it were) and
first dressing of the wound, by repelling
of force, and other outrages, that doe
sodayn

lodainly arise: and hath yet neuertheles (when as the time and matter will permit) politickly established an assembly, and conference of all the Iustices at certain times in a full court, and open Session.

For it is true, that if the publike peace should not bee preserved by taking of suretie, before it be broken: If such as doe violate the common tranquillitie, should not be committed to prison when they haue broken it: If sedicious tale beares (the sowers of rebellion) should not be snapt by and restrained: If finally, riotous assemblies should not be dispersed, and forcible inuasions withstood, & removed: the hurt body would bleed to death, & too late (and all in vain) would it bee to summon a Session for remedie. But when the bydle is once cast vpon the head of the offender, then, and not before is the matter readie for the Sitter.

The descrip-
tion of a sessi-
on of the peace

I will (for this time call a Session of the peace An assembly of any two (or more) Iustices of the Peace (one of them being of the *Quorum*) at a certaine day (and place within the limits of their Commission) appointed to enquire by a Iurie (or otherwise to take knowledge) and thereupon to proceed to heare & determine according to their power, of causes within their Commission, and the statutes referred to their charge.

And this description excludeth all meetings, that are onely for enquire: in so much as to enquire, and not to heare and determine, is but a halfe

halfe doing, and not worthy the name of a Session of the Peace.

It sheweth out also such assemblies as doe consist of two Iustices of the Peace, meeting onely to enquire, heare, and determine of a riot, by vertue of the statute 13. H. 4. For that they may doe (as also the former) though neither of them be of the Quorum. So that it is but a particular service, laid vpon two Iustices and the Sherife by this statute: the record wherof shall not (as I thinke and haue said already) remain amongst the Records of the Sessions of the Peace.

And therefore, the assembly that I meane, is a meeting of such Iustices for the execution of their generall authoritie.

And a be it that happily some one matter be the motiue and chiefe cause of their coming together: yet if they deale with that and others (within their commission, and charge) let it (on Gods name) passe for a Session of the peace, according to my meaning.

The Sessions of the peace then, be grounded chiefly vpon the words of the second *Assignamus*, in the Commission: the which (being, *vos, & quoslibet duos vel plures vestrum, quorum aliquem, &c.* doe verie necessarily require the presence of one of the Quorum.

And these three things namely to Enquire, heare, and determine, doe (in effect) comprehend whatsoeuer belongeth to the Sessions: so that

A partition of
all that which
followeth in
this booke.

every

suerie thing whercof I shall herafter intreat, will concerne, either the Information of the Iustices by enquirie, and other maie meane: Or the Hearing and the tryall of the cause it selfe: Or the Iudgement and execution (which is the Determining) giuen and done vpon it. And therefore, in this path (God willing) will I tread, and by it you shall trace me to the end.

Who shall appoint the Sessions of the Peace: and how, and where.

CAP. II.

Knowledge of
causes at the
Sessions.



He Iustices of the Peace, doe (at their Sessions) take knowledge of causes within their Iurisdiction, either by the Oath of Inquirors, or by the presentment or declaration of other men: And this Inquirie is first prepared, by the apparance of the Officers and Countrey, and by the Articles giuen in charge: and then performed by the presentment (or indictment) of them that had the charge to make it.

Preparation
for Inquiry.

Now, albeit that these Sessions be commonly, and most orderly, summoned by a Precept in writing: yet is it not altogether of necessitie (for the making of a lawfull Sessions) to haue it so. For if competent Iustices of the peace doe get men to serue and thereupon do hold a session (with

(without any Precept before directed) all presentments made before them by twelve lawful men, shall be of force in Law: but no man shall lose any thing for his default of apparance there, because no man had notice of their Sitting, Mar.

Howe thelesse, because the common & moze allowable manner is, to call the Officers and Countie together for this seruice, by a precept to the Sherife, wherein both the disposition of the Iustices is notified for the holding of a session, and the seruice and attendance of those others is commanded to bee thereat with them (which also they bee well warranted to direct vnto him, by the two Assignanims of their Commission, and by the Mandamus that followeth thereupon) I will lay downe the forme thereof, which hath been like to this.

EDwardus Hoby Miles, & Radulphus Hayman Armiger, duo Iustic. dom. reg. ad pacem in comitatu Rancia conseruandam, necnon ad diuersa felonias, transgressiones et alia malefacta in dicto comitatu perpetrata, audiendum & terminand assignatorum, vicecomiti eiusdem comitatus salutem: Ex parte dicti domini reg. tibi precipimus, quod non omittas propter aliquam libertatem in ballinatus, quin eam ingrediaris, & venire facias coram nobis, vel socijs nostris Iusticiarijs pacis &c. (tali die &c.) proxime futuro apud Maidston in comitatu predicto tam xxiiij. pro bos & legal homines de quolibet hundredo

Precept to
summon the
Sessions of
the Peace.

hundredo in ballina tua quam xxiiij. milites & alios probos & legales homines de corpore comitatus tui (tam infra libertates quam extra) quorum quilibet habeat lx. s. redditus terrarum & tenementorum liber. per annum ad minus: ad inquirendum tunc & ibidem super hijs qua ex parte dicti domini Regis coniunguntur. Scire facias etiam omnibus Coronatoribus comitatus, Seneschallis, Constabularijs, Subconstabularijs, & Ballinis libertatum, infra hundreda & libertates predicta, qd sint tunc ibi ad faciendum perimplenda ea qua ratione officiorum suorum sunt facienda. Proclamari praterea facias per totam ballinam tuam in locis idoneis predictam Sessionem pacis ad diem & locum predictum fore tenendam. Et in ipse tunc sis ibidem, ad faciendum, & exercendum ea qua ad officium tuum pertinent: & habeas ibi tunc, tam nomina Iuratorum, Coronatorum, Seneschallorum, Constabulariorum, Subconstabulariorum, & Ballinorum predicta quam hoc preceptum. Datum sub sigillis nostris apud Shoreland in com. predicta. xvi. die Martij, anno regni dicti dom. nostri reg. Jacobi Dei gratia &c.

The number
of the Justices

This Precept may be made (as here it is) by any two Justices of the Peace, so that the one of them be of the Quorum, for two such may hold a Session of the Peace, as it doth plainly appeare by the Commission: and therefore (as P. Marrow saith) it suffiseth not to haue it run under the name of the Custos Rotulorum alone, seeing that he hath no more authoritie in this behalfe, then any one of his fellowes hath

bath : for the words of the said *Mandamus* in the Commission to the Sherife be *Coram nobis &c. venire facias, tot & tales &c.* Yea, if two such Justices make a Precept for a Session of the Peace, all their fellow Justices cannot discharge it by their *Superfedeas*: but a *Superfedeas* out of the Chancerie will discharge it, with Fitzh.

And if one Justice of the Peace alone will take upon him to hold a Session of the Peace, (that was lawfully summoned by him and any other such Justice) and will make the stile of the Session in the names of himselfe and the other, all presentments so taken before him may be annoyded: but if the Sessions be in truth holden by two sufficient Justices only, and the stile (or title) thereof be made in the names of three; then all the presentments before them shall stand good. For it will not helpe the party to say, that one of the three was not there, when it shall appeare that two of them (the one being of the *Quorum*) were present, which will suffice Mart.

Touching the time of holding the Sessions of the Peace, I will forbear to speake, till I shall come to divide the Sessions. The time.

But the place of holding them is arbitrable, The place. and at the pleasure of the Justices themselves, so that it be meete for access. And although the Precept, doe appoint the Sessions to be holden in some one Towne by name, yet may the

Iustices keepe it in any other Towne, and all the presentments shall be good that shall bee taken where they hold it : but then againe, no americiament can be set vpon any man for his default of apparance there, because hee had no warning of it, Marr.

So if two such Iustices make a precept for a Session to be holden in one towne, and two other Iustices make an other precept for another Session to be holden at another Towne (or in an other part of the same Towne) the same day: then the presentments taken before either of them shall bee good, Mar. And then so it seemeth, that he which serueth at the one Session (as a Juror or officer) shall be excused for his default at the other : because as they both be the Kings Courts, and of equall authoritie, so he cannot present himselfe in them both at once.

Wha

What persons ought to appeare at these Sessions, and therein of the Custos Rotulorum, the Records of the Sessions, and the Clarke of the Peace, and how the Jurors ought to be qualified and ordered, and of the primiledge of the Sessions.

CAP. III.



For the better preparation towards this enquiris, let vs peruse the persons that are to attend and doe seruice at the Sessions.

The Iustices of the peate be so necessary, as without them (though all others should appeare) no Session can be kept: and yet if any of them be absent, their fellow Iustices cannot amerce them, as the Iustices of Assise may doe for their absence at the Gaole delinerie: for *Inter pares non est potestas*, and the authoritie of all the Iustices of the Peate at the Sessions is equall, so that like power hath he which is not of the Quorum with him that is, except it be in speciall cases set forth in the Commission and Statutes. And therefore it was holden (3. H. 7. Fitz. tit. Iustice del Peace 3.) that if one which is not of the Quorum, will be so bold as to rebuke one that is of the Quorum, he and his companions may not commit him to prison for it.

The Iustices
and their
equalitie

ther will any discret Justice take liberty here, by to carpe oꝛ scozne any of his colleagues, because hee is equall with them: but will rather draw from hence a lesson, to use them with all lenitie and meekelie, seeing that they be not inferior to him,

And albeit the power of these Justices bee ioynt at the Sessions, yet (to some purpose) each one hath a distinct power by himselfe also. For if one of them (sitting in this Iudicial place) shall see a Riot, he may cause the parties to bee arrested, and may also record the Riot, where by they shall be so concluded, as they shall haue none answer to it, Fitzherbert tit. Justice del Peace 9.

The Recognisors.

The Recognisors that stand bound to the keeping of the Peace, and to appeare at the Sessions, and such like, be commonly tied unto the quarter Sessions, whereunto I am not yet come: And those prisoners that are sent by Justices of the Peace for felonie oꝛ manslaughter oꝛ suspicion thereof, oꝛ be let to baile oꝛ mainprise vpon any such offence, be (for the most part) reserved till the Gaole delinerie, where with I haue not to doe, The rest of that kind may be brought forth at euerie Sessions of the Peace.

The prisoners.

But two sorts of men there are that owe their ordinary attendance at the Sessions, that is to say, the Officers oꝛ ministers of the court, and the Iuroꝛs of the Countie.

Amongst

Amongst the Officers, the Custos Rotulorum hath worthily the first place, both so; that he is alwaies a Justice of the Quorum in the Commission, and amongst them of the Quorum, a man (so; the most part) especially picked out either so; wisdome, countenance, or credit: and yet in his behalfe he beareth the person of an Officer, and ought to attend by himselfe, or his Deputie.

For the words in the Commission be to him now by his proper name, *Quod ad dies & loca predicta, brevia, precepta, processus, & indultum in predictis coram te & dict. socijs tuis venire facias.* Whereas (untill the xiiij. yeere of King Rich. the second) that charge was generall to all the Justices, and not layed specially vpon any one person in the Commission: as it doth appeare in the Letter, by the Records which I haue already touched.

This man (as his verie name betwrayeth) who shall hath the custodie of the Rolles (or Records) of the Sessions of the Peace: and whether the custodie of the Commission of the Peace it selfe do pertain to him alone, it hath bene made some question.

For Marrow saith, that seeing the other Justices may hold a Session without him, it is meete they should then haue the Commission with them. But Chock in the booke (p. E. 4. 2.) holdeth, that a Justice of the peace (in making any Justification by vertue of his Office) ne-

needeth not to shew the Commission of the p.
because (saith he) the keeping thereof belongeth
to the Custos Rotulorum: & for the same cause
also, the Bailife of a Justice of the Peace shall
not be dynen to shew the Commission, as it
seemeth, 10. H. 7. 7.

And truly, since it is such an entire thing, as
can remaine but in the hands of one at once, it
seemeth most reasonable, that he that is put in
trust with the rest of the Records, should bee
credited with the custodie of the Commission
also.

*The Records
of the Peace.*

But vnder the name of the Records of the
Sessions of the Peace, I doe not comprehend
all manner of Records concerning the Peace,
but those onely which ought to be at the Sessi-
ons of the Peace: as Bills, Plaints, Informa-
tions, Indictments, Presentments, the Rolles
of processes, Trials, Judgements, Executions
and all other the Actes of the Sessions of the p.
themselves: and furthermore, the Ingrossment
of the rates of seruants wages: all Recogni-
sances of the Peace and good Abearing: Recog-
nizances concerning Felonies, and Alehouse-
keepers, and such like as ought to be certified
(or brought) to the Sessions of the Peace, must
be numbred amongst the Records of the Sessi-
ons of the Peace: for of all these there may be
use of the Sessions, and therefore the Custos
Rotulorum, or some for him, ought to be readie
there to shew them.

For which end I take it meet, that howsoever those Records have heretofore been suffered to lye in the hands of the Clarke of the Peace, and by the death or remone of him have bene to sicke: yet now the inconuenience being found, and the Records themselves being growne to greater bulke the same should be lodged in some speciall and proper roome under safe custodie, and not without an Inuentorie (or Register) indented, whereof the one part to remain with the Custos Rotulorum, and the other with the keeper of them.

Now, although it were before time at the libertie of a Justice of the Peace to certifie a Recognisance of the Peace, to the Custos Rotulorum (as you may see 2. H. 7. 1.) Yet now by the statute (3. H. 7. c. 1.) he ought to certifie, send, or bring it to the next Sessions of the Peace, that the parties may be called, and to the end also, that his default (if he make any) may be recorded: and by such Record of his default, hee is concluded to say, that hee appeared there, 13. Ed. 4.

As for precepts for suretie of the Peace, the speciall Records for continuations of forcible entries, riots, and such like, as be made out of the Sessions of the Peace by particular Justices, and be to remaine with themselves, and not appointed to be certified thither, I cannot reckon them in the number of the Records of the Sessions of the Peace: no more then I may well

well doe the Intolments of bargaines & sales: and such other Records lying in the charge of the Custos Rotulorum, or Clarke of the Peace.

And now, as this man is (by name and Office) keeper of the Records of the Peace: So would it not a little amend the service, if he were (in deed also) carefull for the due preservation of them, and would not loosely leave them (as commonly it is found) to the onely custodie of the Clarke of the Peace, without having any register of their number and sorts, and without appointing any convenient place certaine, for the more readie search and safe bestowing of them: whereby it falleth out verie often, that after the death of such a Clarke, these Records are hardly recovered, and that pecemeale from his widow, servants, or executors, who at their pleasure may embesell, misale, or conceale what they will: The which, how farre it may reach to the losse of his Patente in his fines and forfeits Royall, and to the hurt of his subiects as well in their purchases of lands (the intolments whereof also are not alwaies orderly digested) as in their goods, and towards their persons (by the filching of bonds endiements, or processes) I leave to be debated and decided in the Court of their owne consciences that take this charge vpon them.

Walter Brooke (titul. Commission 11.) addeth, that the Records of the Iustices of the Gaule

Gaole delineries doe remaine amongst the Records of the Peace also. Notwithstanding I thinke he meant it not of all the Records of the Gaole delineries.

For as the Iustices of Gaole delineries have their proper Clarke, which maketh up, and keepeth the Records of things determined by their Commission: so the same Iustices (being withall Iustices of Peace) doe leane with the Clarke of the Peace, Inditeiments, and such causes of the Peace, as be not determined, but doe hang in p[ro]cesse, to the end that offenders may be the more speedily iusticed.

And it appeareth 13. H. 4. 10. that Hanford (Iustice of Gaole delineries) as his departure called the Clarke of the Peace, and willed him to take the name of a prisoner that had bin sent thither for felonie without any sufficient p[ro]ofe and to cause it to be enquired of at the next sessions of the Peace.

This Custos Rotulorum hath creadit (by 27 H. 8. c. 16.) touching enrolments: by 11. H. 7. c. 15. to appoint two Iustices of the Peace that may control the Sherifes booke: by 27. El. c. 12 for taking the oath of the Undersherife, and by 39. El. c. 12. & 1. Jac. c. 6. for keeping the Ingrossment sealed of the rates of wages for servants and labourers.

And this office of the Custos Rotulorum, was of ancient times given by the discretion of the
 The gift of
 the Office of
 the Custos
 Rotulorum

Lord Chancellor, vntill that (about the latter end of the reigns of King Henry the eight) sundrie persons (no lesse vnbos, then to occupie the Office, then grædis to haue the place) did by their owne labour, and other mens friendship, obtaine at that Kings hands, graunts of the same by his Letters Patents, for terme of their lines: by meanes whereof so many evils did shortly ensue, both to the hindrance of Justice and to the disherison of the Kings subiects, that the last Parliament of his raigae (viz. 37.H.7. cap.1.) did somewhat restraine that course: for as it did ordaine, that none should thenceforth be appointed *Custos Rotulorum* in any shire (a few places of Priuiledge only excepted) without a Bill signed with the Kings hand: So it toke order also, that the same Bill signed should be but as a Warrant to the Lord Chancellor, to assigne (in the Commissions of the Peace) the same person to be *Custos Rotulorum*, onely vntill the king should (by an other Bill signed with his hand) make appointment of an other person for the place.

But neither this ordinaunce had any long life: for within a few yeres after it was thoght so preiudiciall to the power of the Lord Chancellor, and so troublesome a matter to sue to the King for Bills so to be signed, that by the Parliament (3.E.6.cap.1.) the Lord Chancellor was wholly restored to his ancient authoritie in naming the *Custos Rotulorum*, againe (except in such

such priuiledged places) without expecting any such Bill : and that the *Custos* appointed by the discretion of the Lord Chancellor, should enioy the same Office, to bee occupied by himselfe, or his sufficient Deputie, in as ample manner, as if that Statute (37. H. 8. cap. 1.) had neuer beene made.

The Clarke of the Peace oweth his attendance at the Sessions also. For (omitting that hee hath speciall trust in the taking of Inrolments by 11. H. 7. cap. 15. and that he is (in a sort) incorporat by the name of his Office, to sue vpon the statute of Wy and Cry, 27. Eliz. cap. 13. generally : and 39. Eliz. cap. 25. in one speciall place : because those things haue no reference at all vnto the Sessions, he readeth the Indiaments, and serueth the Court, he inrolleth the Acts of the Sessions, and writeth the Processe. He must recorde the Proclamations of Rate for seruants wages, and inroll the discharge of Apprentizes, 5. El. cap. 4. He kepeth the Register booke of Licences given to Badgers and Labers of Corne, 5. El. cap. 12. and of those that are licenced to shote in guns, 2. Edw. 6. cap. 14. Presentments for not coming to Church, and the certificat of the Oath of Allegiance, are to be recorded by him 3. Iac. cap. 4. And he is bound (vnder the paines of 1.) to certifie vnto the Kings bench, transcripts of Indiaments, Attlawies, Attainders, and convictions, had before the Iustices of the Peace within

Clarke of the
Peace.

within the time limited by the statute 34.H.8. cap. 14.

All which things he cannot doe, if he be not present: so that he is an Officer to this Court, and is the Clarke to the Justices, as the statute 12.R.2.c.10. nameth him, and not (as *Sp. Mar.* thought) the Clarke of the *Custos Rotulorum* only.

You may read also 2.H.7.1. that if a Recognisance of the Peace be brought in, to the *Custos Rotulorum*, and the partie grieved will not sue forward, then the Clarke of the Peace (who is the Clarke and Attorney of the King, saith that booke) shall call upon it for the Kings advantage: and I am sure that the said Statute, 37.H.8.c.1. calleth his place an Office.

The nomination of the Clarke of the Peace.

Notwith, the nomination and appointment of him hath long time belonged to the *Custos Rotulorum*: and he is to enjoy his Office so long as the *Custos Rotulorum* keepeth his place: and may exercise it by himselfe, or by a deputy sufficiently instructed in the Law, and admitted by the *Custos Rotulorum*.

And this office was also (for a time) given by the Kings Letters Patents for terme of life, as that of the *Custos Rotulorum* was, untill the said statute (37.H.8.c.1.) recontinued the ancient order of giving it by the *Custos Rotulorum* only.

The Coroners

Furthermore the Coroners (as the common forme of the precept sheweth, and the Statute

17 H. 8. cap. 5. presumeth) ought to be present at the Sessions: But yet, that is not so; to certifye their inquisitiones (which ought by 1. & 2. P. & M. ca. 12. to be done at the generall Gaole delinerie) nor yet to receive any Approuer, for neither that belongeth to the Iustices of the Peace, 9 H. 4. 1. but it is onely (saith W. Marr.) because the Coroners be parties to the Exigents, and the Iudges of the Wiltawis: Wherebeit, they are (besides that) Conservatores of the Peace also, and may (in cases) commit men to prison, and therefore ought to be at the Sessions to object against them.

The Sherife in like manner ought to attend at these Sessions, for the double dutie that he beareth: the one as Sherife to returne the Precept, to take the charge of prisoners, and so to serve the court otherwise, as he hath in charge by the Mandamus that is mentioned in the Commission: the other; because he also hath care and charge of the Peace.

The Bailifes of Franchises, and the Constables of hundreds are to serve here, the one as Spinisters, and the other as Jurors, and therefore ought to give their attendance.

And entrie of those (except it be the Custos Rotulorum: for whereof I doubt) may without controuersie be amerced, if they make default.

But the Ordinary oweth not his attendance at any Sessions of the peace, as he doth at enen-
rie.

The Sherife

Bailiffs and Constables.

The Ordinary

rie Carol delinuerie, in the opinion of W. Marr. In deed he is not warned by the common forme of Precept, & therefore cannot so conveniently take knowledge of the Sessions of the Peace. Notwithstanding, I think that he ought to serve, when he shall be called, for matter of Clergie.

Jurors for
enquirie and
triall.

But especially, here ought to appeare such Jurors, as be returned by the Sherife, and warned by his Bailifes, whether it be for enquirie, or triall. And in this behalfe, both the Commission, the common forme of the Precept, and the Law it selfe (11. H. 4. cap. 9.) willet, that they should be *Probi & legales homines*.

For, if any of them be discredited in Law, as by Attainder in Conspiracie, Attaint, *Decies tantum*, Subornation of perjurie, Concealment or such like, they be not *Probi*, and their presentment is void by it, unlesse there be xij. besides them, that are not so blemished.

Again, if they be outlawed, abiured, condemned in a Preemunire, or attainted of Treason, Felonie, or such like: then be they not *Legales*, and their presentments is merely void also, as it may be gathered vpon the case, 13. H. 4. 41.

And women, infants vnder xij. yeres of age, Aliens, and such as be within orders of the Priuistrie, or Clergie, cannot be empannelled amongst others, Marr.

Generally also, these Jurors ought either to be inhabiting within the Shire, or else to haue lands

lands there: for the Commission willet, that they should be such, *Per quas rei veritas melius sciri poterit*: which must needs be understood of such, as haue cause to know the Countrie: and the Precept is vsually according to the same forme: especially (in the Countie Palantine of Lancaster) each Juroz of Indictment and triall ought to haue to the yeregly value of v. li. by order of the statutes 7.H.5.c.1. 18.H.6.cap.12 & 33.H.6.c.2.

If any of these Juroz returned, bee thre, scoze and ten yeres of age, or haue any continuall infirmitie, or bee otherwise decrepit, yet that shall not excuse him for not appearing, if the Iustices will exact his seruice: but he is due to his action vpon the statut (West. 2.c.38) against the Sherife for his returning of him, Marr.

And if hee haue a Charter of exemption, hee ought to shew it to the Sherife: against whom (if he will notwithstanding empannell him) he may haue onely his Action vpon the Case, and none other remedies, 18.H.8.5.Cur. which may be truly said, as to the sauing of his issues: but (by some other booke, and namely, 42.Ass.p.5. and Mar.) he is to be discharged vpon his appearance, and specially where hee hath in Charter of Exemption, these words, *Licet tangat nos*, vnlesse it fall out that there want others that be sufficient to serue and furnish the number, in which case none is to be spared.

Now, though some of the Jurors of this enquire, be of affinity (or consanguinitie) with any partie graued, that procureth the Indictment: yet that hindreth not their presentment: notwithstanding it is no discretion for the Iustices to suffer any such to be empanelled.

Generall and particular Juries.

Our common maner in Kent (agreeing with the forme of the precept) is to returne particular Juries for the hundredes, and one generallurie for the bodie of the Shire: this last is made up with vs (for the most part) of the Constables only: and those others (if they be not killed at the first) are wont to remaine, and to be renewed with the Tables from Sessions to Sessions. But that vsage is no small hinderance to the seruice (as many doe thinke) by reason that (those particular Juries being seldome serued with full apparance) the whole enquire standeth only vpon their labors that are empanelled for the bodie of the Shire, that is to say, vpon one man of each hundred, or two (at the most) who cannot bee thought to see so much as a wholeurie of eies both may and doe see.

And furthermore, they thinke, that it were good to make up some of the particular Juries also (when they be not full) *de circumstantibus* of other hundredes: by which meane, either the whole Shire, or (at the least) a great name partes thereof might bee perused, and serued.

And

And to this opinion *op. Mar.* seemeth to incline, saying, that in default of those which are returned, the Justices may take a *Jurie De circumstantibus*: And hereunto also the Statute (3.H.3.cap. 12.) sheweth some good consent, in that it giveth power to the Justices, by their discretion to command the Sherife or his deputie, to ad, alter, or diminish the names of the pannel, which if he refuse to do, he shall forfeit *xx. li.* for his contempt.

Neither is it to be objected that men (being all of one Shire) may not take knowledge of things done in divers Hundreds; saying, they have divers occasions of meeting together, as the Countie Court, the Sherifes turnes, the Assises, and generall quarter Sessions. And if a Jurie of one hundred would make presentment of an offence don within any part of the Shire (out of their owne Hundreds) this were good in Law.

Besides the which (if *op. Marr.* mixture be followed) few of them that doe appeare, shall lose their labour, whereas now the most part of them doe come in vaine.

But the men be not truly Jurors, till they be sworn, as their name pretendeth, and otherwise their presentment is utterly void. And if it should (by any oversight) happen, that they or some one of them, were not sworn at all: yet if the Record make mention, that they be sworn, their presentment is of force enough:

How they of the Jurie must be sworn and ordered.

for the Verdict may not be gainsaid.

The number
of Iurors.

And the Iustices may (upon cause) remove a Iuroꝝ after he is sworn, 20 H. 6. 5. Again, if (after the swearing of the Iurie) their service be put off till the next day (upon any urgent occasion) then may they be sworn of new, as if they had not before appeared, 7. H. 4. 38.

Each Iurie of Enquirie ought to containe twelue in number at the least, and if there bee eighten (or more) it shall not be amisse: Yea, it is a common order with vs, to haue them of odd number, as seventen, nineteen, or twentie and one: to the end (as it seemeth) that if they should dissent in opinion somewhat equally, yet there should bee alwaies one to weigh downe the side, and cast the ballance. But if twelue of them doe agree, the gainsaying of the residue cannot hinder the presentment. Yea, the Law was (in the time of King Elthred) that in a Iurie of twelue, the agreement of eight should preuaile and make a good verdict, although for a long time together it hath been, and yet is otherwise vsed.

The Iustices ought not to commit these Iuroꝝ of enquirie to any keeper: nor to keepe them without meat or drink: nor to cary them out of the Towne: and yet they may adourn them to an other place, to giue their verdict,

Concealment

If these Iuroꝝ doe wilfully conceale offences (presentable, and that be complained of by Bill) then may the Iustices chuse an Enquer

of persons (whereof euery one may dispend xl. s. by yeres) to enquire of their concealment: And if any such concealment be found within the yeres, euery one of the first enquest shall be amerced in full Sessions, by the discretion of the same Iustices, 3.H.7.c.1.

And because the Iurors of those daies were yett wilfull in their concealments, it was provided within eight yeres after, that the Iustices of Peace should determine causes, vpon information, without any such presentment. But many times *In vitium ducit culpa fuga*: and therefore, that ordinance endured not long as you shall hereafter perceine.

Nevertheless, it is to be wished, that these and such other Inquidors would more carefully employ themselves in that service, which is the chiefe and almost the only ground, whereupon the Iustices are to worke: considering that rarely any other then common promoters (that hunt for priuat gains, and are not led by zeale of Iustice) will be intreated to informe against the offenders.

And this shall they the better doe, if they will be directed by these few Counsels following, viz. First, that they come prepared, to further the good of their Country, and not to save their Issues, or to serue for fashion sake: When, that they giue credit to credible persons, sweare to informe them: Wholly, that they measure their doings by the right line of law,

and not by the crooked cord of a pretended equity & counterfeit conscience, Furthermore, that they hold not a Court of Common plea, by admitting proof of witnesses against the King, as knowing that they are not to trie an issue, but to offer an information, the truth or falsitie whereof, shall be afterward tried by another Iurie: Finally, that they discover not their owne doings, so; it is usually a part of their Oathe, that they shall keepe the Kings Counsell, and their fellowes. And we read in Fitz. (ii. Corone 207. & 272.) that to indict a man of felonie, and then to shew abroad to others what they haue done therein, hath bene taken for felonie: Howbeit, that offence is now holden to be fineable onely.

Kepe counsel

Whilke edge of
the Sessions.

And now, as all these owe their service at the Sessions, either by reason of their office, or by vertue of the Summons: So all others also may freely attend there, if not for any thing that specially concerneth themselves, yet for the advancement of publike Justice, and for the service of the King. And to this end, they are invited thither (as I may say) by a certaine freedom of access, and by protection from common arrest: a thing that is incident to each Court of Record, and without the which, Justice should be greatly hindered. So that, if a man come voluntarily to these Sessions, with the mind, either to prefer any Bill of Indictment, or to give information against an other:

as to tender a fine upon an Endowment touch-
ing himselfe : as doe come compelled to make
apparance for the saving of his bonu, and be
arrested by the Sherife upon common and ori-
ginall pces, in his coming thither, as du-
ring his tarrying there : it seemeth that (upon
examination of the matter under his oathe) he
shall be dismissed thereof by the privilege of
this Court, even as it is used in the higher
Courts at Westminster.

Cc 3

Of

Of the Articles that are to be giuen
in Charge, at the Sessions
of the Peace.

CAP. IIII

It was the auncient manner, that
twise in the yere at the Sherifes
turne (which was sometime a court
of great authority, & called Shire-
mote) the Bishop of the Diocesse, & the Alder-
man (or Carle) of the Shire, should be present:
the one, to informe the people in the lawes of
God: & the other to instruct them in the lawes
of the Land: *Archaionom, In legibus canon,*
cap. 17.

And it were to bee wished, that as there is
commonly at euerie Assise, a Sermon (uttered
by some learned man) so also the like might be
at each generall (or quarter) Sessions of the I.
For seeing that the lawes of men must be ob-
eyed for God, it doth of necessitie ensue, that he
which will seeke to haue man obeyed rightly,
must first cause God to be preached truly.

The Iustices of the Peace (saith *Sp. Fitz.*)
for their parts be bound to informe the people:
and (no doubt) the charge is giuen, as well to
instruct those that bee ignorant, least they of-
fend vnwares: as to enquire of those that haue
already

already fallen into danger by offence, and therefore of it is, that many statutes doe expressly command, that they shall be openly read (or declared) at the Sessions, as you shall see in place for it.

But the manner of giving the Charge, and retaining the verdict at this day, differeth from that which the Justices in Eyre were wont to use: for you may see in sp. Bract fol. 116. that first one of the Justices did open before the whole assembly, the benefits of the service in hand: the commodities of keeping the Peace: and the evils of the contrary: and that then the Articles of the Charge were read by one and one to the Jurors: who (receiving the same at the hands of the Justices) did also make answer (in the yielding up of their verdict) to each Article severally, and by it selfe.

Which custom, as it had many profits, so it is worthy, in mine opinion, to be recontinued and brought in use againe.

Neither ought the multitude of the Articles (now inquirable) to discourage any man in this behalfe: For, if those lawes which be least serviceable (either for the present time, or for the place, or other inst respect) were onely touched or run over by way of short Articles: then wold there be the more time afforded for speech that might be well spent, as well in discourse of exhortation, or dehortation, as in the larger handling of such other statutes, whereof there

The ancient order of giving the charge in the 1;

is greater use and necessitie. And this libertie the Justices in Eyre themselves did use also, as the same W. Bract. in the same place reporteth.

The points of the charge that wee have in hand, may be reduced to a few heads, and that after sundry sorts of distribution: of which (for examples sake) I will shew you some. First thus,

The points
of the charge
divided,

1 All the matters inquirable, be either Ecclesiasticall, or Lay and Temporall: and these Temporall, be either high treasons, petit treasons, felonies, or otherwise punishable and fineable offences: D; thus,

2 All these points, do either concerne God, the Prince, or Subject: D; thus,

3 The breach of these Articles, is offensive either against the first or the second Table of the ten Commandements of God: D; thus,

4 All these matters be inquirable, either by vertue of the Commission of the Peace, and of the statutes therein implied, or else by power of the statutes not comprehended within the Commission: D; thus,

5 All these Lawes doe either command or prohibit things agreeing or repugnant to some of the foure cardinall (or principall) vertues, Prudence, Justice, Fortitude, or temperance: D; thus,

6 All offences inquirable here, be either voluntarie, involuntary, or mixt: D; thus,

7 All these Ordinances doe either draw vs to the good, or withdraw vs from the euill, of the mind, the bodie, or fortune: D; thus,

8 Men doe offend these Lawes, either by doing nothing of that which is commanded: or by doing another thing then is commaunded: or by doing that amisse, which is commaunded well: D; thus,

9 These Lawes be offended, either by doing too much, or too little.

They may also be diuided, by the variety of the punishments, & by some other accidentall respects: all which I leaue to the choise of such as shall giue them in charge, and will now (for this time) set downe the Articles themselves, after the order of the first & third sort of diuision, pointing out in the first place the Ecclesiasticall causes, & then pursuing the Tempozall.

In which doing, first, I will omit all such Statutes as do concerne but only some one, or a few particular places, knowing that I write to y^e most part, who haue not to do with them.

Secondly, I will purposely pretermitt the distinct rehearsal of punishments, conteyned in the statutes that I am to run thorow: as well for penities sake, because those do rather pertain to the Iustices, then to the Jurors, as also for that I haue an ancient precedent or two to make for me: the one of the Iustices in Circ who (in their charge) did only read the articles in offence, without vsing any mention of the
The manner of this charge.

paines due unto the same. As it appeareth by *Braſſon, Britton*, and the ſmall volume of the old Statutes, vnder the Title *Capitula Itineris*: and another like of the Articles deliuered to the inqueſt of Office, in the Kings bench, as is to be ſene in the booke of *Aſſ. lib. 27. pl. 44.*

And yet, if in ſome ſpeciall point it may bee ſeruiciable, to haue the paine of the Law laide wide open (as in a great many througħ the lenitis thereof, it will doe no good at all) the Reader ſhall find it ſo; the moſt part quoted in the margine here, and ready to be vſed by him.

Laſtly, I will neither recite all the parts of each generall Statute by it ſelfe, nor yet comprehend them wholly and fully with others: becauſe the firſt of theſe waies would be verie long, througħ the often iteration of the ſame things, and the other would be ſo crooked and combersome (througħ the varietie and difficultie of the exceptions) that the hearer would bee many times loſt, beſore I ſhould come to the end.

I know, that *ſp. Ficz.* was of the opinion, that the Juſtices of peace ought at their quarter ſeſſions, and might at their priuat ſeſſions, giue in charge to the inqueſt, all ſuch matters as they haue power to determine: and this he vſgeth, as well by the Oath of the Juſtices (who are ſworn to do right in all cauſes with in their Commiſſion, or the Statutes) as alſo by the ignorance of the Jurors, who be inſtructed
only

only by the charge: which if it be so, I see not (for my part) how either these Justices (that are bound to utter all) can be discharged, or the Jurors (that ought to heare all) can be informed without this, or some such compendious and plaine way, that may both shortly for the time, and lighsomely for the order, comprehend the chiefe substance of all that which belongeth to their Enquire.

Wherbeit, as I thinke it the best for the Justices, to rehearse all such points, whereof the Jurie may make presentment before them: so yet, I hold them discharged (in my slender opinion) if they unfold only the Articles of their Commission, and of such other statutes as doe expressly authorize them to make enquire.

For, as there be sundrie Lawes that do give the Just. of the I^d. a certaine speciall (or particular) power in them, & doe not yet yield unto them any authority to enquire vpon the same (of which sort be the statutes, 27. H. 8. c. 20. & 32. H. 8. c. 7. of tithes: the stat. 35. H. 8. c. 17. of wood: the stat. 23. El. c. 9. of Logwood, & sundrie others;) So also there be diuers others, that do afford to the Just. of I^d. the power of hearing & determining, & yet doe not expressly give them the name of Enquire.

And, sozasmuch as they may heare and determine of these, by Information (given to themselves, and by them recommended to the Jurie) it seemeth to me, that they be not so necessarily

cessarily bound to give them in charge, but that they be well enough discharged, if they be open & ready to receive the informations and presentments that shall be offered upon them: And of this kind be the Statutes of Highways (5.El.c.13. & 18.El.c.9.) the Statute of Fighting in Church or Churchyard (5.E.6.c.4.) the Statute of Informers (18.El.c.5.) and sundry others, whereof it would be superfluous to make rehearseall.

Nevertheless, because I will not that my fantasies shall either stand against his iudgement, or be prejudiciall to other mens profit, I have contended (what I may) to deliver the principall and most serviceable parts, not only of the Commission and of such Lawes as doe specially concerne their inquirie within them, but also of all such other Statutes as may bee heard & determined by Iustices of the Peace at any their sessions: and that in so narrow a roome, as (if I be not after some proofe, deceived) they may be distinctly read over in a couple of houres, at the most: So alwaies, that the varieties of the punishments, the yeeres of the Kings and their Parliaments, and such other Notes as fall in by the way, bee left untread, and be passed over.

of Ecclesiasticall causes.

Extoll any
a great power

If any person have (within this halfe yeare) by writing, printing, teaching, preaching, expressing or as an, abusively, maliciously, and
direct

licitly affirmed, holden, set forth, or defended,
the authoritie, preheminence, power, or iuris-
diction spirituall or Ecclesiasticall, of any so-
reine Prince or person whatsoever heretofore
claimed, used, or usurped in this
Realme, or any the Kings Do. Of. ^{1. Pre-}
minions, or have advisedly, ma- ^{munire}
liciously, and directly, put in use ^{2. Treason.}
or executed any thing for the extolling, setting
forth, or defence of any such pretended or blas-
phemed iurisdiction, preheminence, or authoritie,
or any part thereof. And if any person (compel-
able to take the Oathe of Recognition of the
Kings Maiestie to be supreme Governour in all
causes within his Dominions) have refused to
take the said oath, after lawfull
tender thereof to him made, 1. Of. ^{1. Pre-}
El. c. 1. 5. El. c. 1. enquirable by fence ^{munire}
words of 23. El. c. 1. ^{2. Treason.}

If any person, under the Kings obedience,
have at any time (within this yeere) by writ-
ting, cyphering, printing, preaching, or ad-
visedly holden, or stood with, to extoll, or defend
the power of the Bishop of Rome, or of his Pope.
or heretofore claimed or usurped within this
Realme: or by any speech, open in deed, or ad-
visedly attributed any such manner of autho-
ritie to the said Pope of Rome, or to the Bishop
thereof, within any the Kings Dominions, ye
shall present him, his abbettors, procurators,
counsellors, ayders, and comforters, 5. El. c. 1.

withstand
any freewill
obedience.

Treason.

If any person haue by any meanes practised to absolute, perswade, or withhold any other within the Kings Dominions from their naturall obedience, or (for that intent) from the religion now established here, to the Romish religion, or to moue them to promise obedience to the See of Rome, or other estate: Or if any person haue been willingly so absolute, or withholdings, or haue promised such obedience.

Misprison of
Treason.

And if any person haue willingly ayded or mainteyned any such offender, or knowing such offence haue concealed it, and not within xx. daies disclosed it to some Justice of Peace, or other higher officer, 21. El. c. 1.

Depart out of
the realme to
serue a forreyn
prince.

If any subiect of this Realme haue after the 1. day of Iune in the yere of our Lord God 1606. gone out of this Realme to serue any forrein Prince, State, or Potentate, or haue after the said tenth day passed ouer the Seas, and there hath voluntarily serued any such forrein Prince, &c. not hauing taken the Oath prescribed, 3. Jac. cap. 4. before the Customes & Controller of that port, haven, or cricke where he had passage.

Felonie.

If any Gentleman, or person of higher degree, or any person which hath bozne any office or place of Captain, Lieutenant, or any other place, charge, or office in Campe, Armie, or Companie of Souldiers, or Conductor of Souldiers, haue after gone voluntarily out of this

Felonie.

this Realme to serve any forein Prince, State
or Potentate, or have voluntarily served any
such Prince, &c. before he become bound by ob-
ligation, with two sufficient sureties unto the
King, his heires or successors, according to this
Act, 1. 12. c. 4.

If any person have said (1) C. markes, and a
(1) or sung Masse: or have yeeres imprisonment.
willingly (2) heard Masse, (2) CC. markes, and a
23. El. c. 1. yeeres imprisonment.

If any person have used or put in use, any
Bull, Writing, or Instrument of Absolution
or reconciliation, or of other sort, gotten from
the Bishop of Rome, or Sec of Rome, or from
any person clayming authority from the same:
Or have by colour of any such taken upon him
to absolve or reconcile any person, or have
published any such Bull or Instrument: Or
if any person have received such absolution,
or have procured, abetted, or counselled any
such offender, to the intent to uphold such of-
fence.

Bull.
Agas Del.

Treason.

If any person have (after such offence) ayded
comforted, or mainteyned such offender, to the
intent to uphold the authority of the said Sec
of Rome.

Premunire.

If any person (to whom such Bull or In-
strument hath been offered or perswaded) have
not within five weekes next after signified the
same to some of the Kings privie Councell, or
to the Kings privie Councell, or to the Lord
President

Misprision of
Treason.

President of the North, or of Wales.

Præsumptiue.

If any person haue brought hither from the Bishop or See of Rome, or from any person authoris'd, or claiming to be authoris'd by any of them, any Agnus dei, crosses, pictures, beads, graines, or such like superstitious things, and haue the same deliuered, or caused, or offered to be deliuered to any the Kings subjects to be or weare in any towne: and if any person haue to such intent receiued or taken the same, & haue not apprehended the offerer thereof, nor within thre daies after disclosed him to the Iudicinarie, or to some Iustice of the Peace: nor within one day deliuered the thing to some Iustice of the peace, 13. El. c. 2. 23. El. c. 1.

Jesuits, and
Seminaries.

Felonie.

If any person (being at libertie or out of hold) haue since the vij. day of May, in the 27. yeere of the raigne of the late Quene Elizab.) wittingly and willingly, receiued, apyed, or mainteyned within any part of his Highnesse Dominions, any Jesuit, Seminarie Priest, or such other Priest, Deacon, or Religious, or Ecclesiasticall person, being bozne within this Realme, or any his Highnesse dominions, and (at any time since Windsor, in the first yeere of the said late Quene Eliz. raigne) made, or deyned, or professed by any authoritie deriued, challenged, or pretended from the See of Rome knowing him to be a Jesuit, Seminarie priest or other such Priest, Deacon, or Religious, or Ecclesiasticall person, 27. El. c. 2.

Contumacious.

Felon.

If any person haue vsed Inuocation, or Contumacious
 titration of any euill spirit, or haue consulted,
 couenanted with, entertained, imploied, fed,
 or rewarded any euill spirit for any intent, or
 haue taken vp any dead man, woman, or child
 or any part of any dead persō to be vsed in any
 manner of witchcraft, sozcery, charme, or inchant-
 ment, or haue vsed witchcraft, inchantment,
 charme, or sozcerie, whereby any person hath
 bin killed, destroyed, wasted, consumed, pined,
 or lamed in his bodie, or any part thereof.

If any person haue un-
 dertaken by Witchcraft,
 Inchantment, Charme, or
 Sozcerie, to tell in what Of-
 place any treasure of gold sence
 or siluer might be found, or
 where goods lost or stollen
 should be become, or to the
 intēt to prouoke any person to vnlawfull loue,
 or to destroy, or impaire any persons goods,
 or to hurt any person in bodie although the
 same were not effected, 1. lac. ca. 12.

1. One yeeres
 imprisonment
 & 4. times on
 the pillorie.

1 Felony.

If any person haue within these fire yeres
 nethes aduisedly aduanced, published and set
 forth by writing, prin-
 ting, open spech, or
 vied to any other per-
 son, any fantastickall or
 false prophecie, vpon Of-
 fices, fields, beasts, or fencer,

1. Ten pound, and
 a yeeres imprison-
 ment.

Do

badges

badges, or upon any time, name, bloodshed, or warre, to make thereby rebellion, dissention, losse of life, or other disturbance within the kings Dominions, 5. Eli. c. 15.

1. All his goods, and prisonment for life.

Perjury.

If any person haue unlawfully procured or made a yeres prisonment, stand vpon the pillorie and disabled for a witnesse.

ny other to commit wilfull & corrupt perurie, in any cause depending in suit in any of the Kings Courts of Record, or in any Leets, Court Baron, Hundred, or court of ancient demesne or haue corruptly suborned any witnesses swoyne to testifie in *perpetuam rei memoriam*: or if any person haue vpon such procurement, or by his owne act wilfully committed such Perurie, 5. Eli. c. 9. & 14. Eli. c. 11. 1. Jac. c. 25.

Disturbance & breach.

If any person haue of purpose, maliciously or contemptuously molested, or by any unlawfull meanes misused any person in Three months full meanes misused any person in prisonment, and either lawfully authorized in any bold to his good port.

his open Sermon or preaching, in any Church, or other place desired, or to be appointed: and who were his aiders, procurers, or abettors, 1. Ma. c. 3. Learn if this statute do stand for this part.

Sacrament.
Imprisonment
and fine.

If any person haue (within these 3 months) by contemptuous, or railing words, or haue aduisedly in any other wise deppaned, despised or railled the blessed Sacrament of the body

and blood of Christ, 1. Edw. 6. cap. 1. & 1. Eliza. cap. 1.

If any Parson, Vicar, or minister haue refused to vse the Common prayers, or to minister the Sacraments according to the Booke of Common prayers: or (wisfully standing in the same) haue vsed any other forme in open prayers, or in administration of the Sacramentes, or haue spoken Finis any thing in derogation of the sayd Booke, or any part thereof: Or if any person haue in any play, song, or rime, or by any open word, spoken in derogation of the said booke, or of any thing therein contained: or haue caused or maintained any parson, vicar, or minister, to say any common prayer, or to minister any Sacrament in other maner, the after the said booke: or haue interrupted any Parson, Vicar, or minister to say open prayer, or to administer any Sacrament according to the sayd Booke, 1. Eliz. cap. 1. & 23. El. cap. 1.

Deprived one Sacrament

1. Losse of his promotion for a yeare: and imprisonment by sixe monethes.

2. Deprivation, and imprisonment by a yeare.

3. Deprivation, and imprisonment for all his life.

1. 100. marke, or sixe monethes prisonment.

2. 400. markes, or twelue moneths prisonment.

3. All his goods and prisonment for life.

If any person (being above the age of xij. yeres, & not hauing lawful & reasonable excuse to be absint) haue not repaired & repaired unto his or her parish church or chappell accustomed, or (upon let thereof) to

Repairs to Church. Twelue pence for each offence, and punishment by censures of the Church.

some vsuall place where common prayer is to be vsed, vpon euery Sunday, and other Holy day: and haue not there orderly and soberly abiden, during the time of such common prayer, Preaching, or other seruice of God: and how long such person hath forborne so to repair and resort, 1. Eliz. cap. 2. & 13. Eliz. cap. 1. See 3. Jac. cap. 4.

Keeping a recusant in his house.

If any person haue willingly maintained, retained, relieved, kept, or harboured any Seruant, Sojourner, or stranger not repairing to some Church, Chappel, or vsuall place of Common prayer, to heare Diuine seruice, by the space of one Moneth together, not hauing a reasonable excuse (other then such as harbozeth his father or mother not hauing other sufficient maintenance, or the ward of any such person, or any person committed to the custodie of any by authoritie) or haue retained or kept in seruice, sex, or liuerie any not repairing to some Church, as befoze, by the space of a moneth together, knowing the same, 3. Jac. cap. 4.

Forfeit x.li. for euery moneth.

Consozmed Recusant.

For 1. 10. fl.
2. 40. fl.

For euery yere after 60. li. till he receiue the Sacrament.

If any Popish Recusant conuicted hauing consozmed him or her selfe, haue not within the first yere after he or she hath consozmed him or her selfe, & after the said first yere, once in euery yere following at the least, receiued & blessed Sacrament of the Lords Supper in the parish Church, where he or she haue most vsuall abode

abiden within the said pære, & if there were no
 such parish church, in y^e church next adioynning,
 And if he o^r she hauing receiued the said Sacrament as aforesaid, haue after eftsones of-
 fence 60. li.
 fended in not receiuing the same as is aforesaid by the space of a yeare, 3. l. ac. cap. 4.

If any Popish recusant, o^r other Seditious
 Sectarie, which is by any the Statuts (35. E. l. c. 1. & 2.) to be abiured this Realme and all his
 Maiesties Dominions haue eifher refused to
 make such Abiuration, o^r making it, haue not
 gone to such banen within such time, as was
 to him therfore appointed, and haue not from
 thence departed this Realme: o^r after such de-
 parture haue returned into any his Maiesties
 dominions, without his speciall licence, 35.
 Eliz. c. 1. & 2. 1. l. ac. c. 25.

If any person haue kept o^r Schoolemaster.
 maintained any Scholer. The maintainer 10. li. for each
 ster which resorteth not to y^e Schoolemaster prisoned for a
 Church, o^r is not allowed by y^e Schoolemaster for a
 the Bishop o^r ordinary of y^e yeere, and disabled.
 Diocesse, 23. E. l. c. 1.

If any person haue malicious. fighting in Church
 ly stricken any other with any churchyard.
 weapon, in Church o^r Church- Loose one of his eares, or to
 yard, o^r drawen any weapon bee marked with f.
 there to that intent, 5. Ed. 6. c. 4.

If any person haue kept faire o^r faire o^r Wacket in
 market in the Churchyard, Stat. churchyard.
 Winton, 13. Edw. 1. Fine.

Rob church
or chappell.
Felonie.

If any person haue feloniously taken goods
out of any Church or Chappell.

Felonies in Lay causes.

Petit Treason
Seruant and
maister, hus-
band & wife,
Clerke and
Parson.
Murder.

Felonie: and
so be the
rest that fol-
low.
Poisoning.
Murder.

Stabbing.
Murder.

Murthering
a King.

Cut out
tongue.
or put out
eyes.

Goalier band-
ling straitly
his prisoner.

If any seruant haue killed his or her Maist-
er, or Mistresse: or any wife her husband: or
any Ecclesiasticall person his prelate, 25.E.3.
cap. 2.

If any person haue (of preperensed malice)
killed or murdered another, openly or priuily,
whether he that was killed were an English-
man or a stranger, lining vnder the protection
of the King.

If any haue wilfully killed any other by poi-
soning: and who be his aiders, abettors, pro-
curers, and counsellors, 1.E.6.ca. 12.

If any person hath stabbed or thrust, ano-
ther, that hath not then any weapon drawn, or
that hath not then first stricken the party so
stabbing or thrusting, so as the partie so stab-
bed or thrust haue died thereof within six
monethes after, 1.lac.ca.8.

If any person haue by chance-medly feloni-
ously killed another.

If any person haue of malice preperensed, cut
out the tongue, or put out the eyes of any of
the Kings subiects, 5.H.4.ca.5.

If any Goalier, keeper, or vnderkeeper of a
prison, haue by duress and paine compelled a-
ny his prisoner, to become an approcher of o-
thers

thers against his will, 14 E. 3. c. 17.

If any person haue committed the detestable vice of Buggery with man or beast, 25 H. 8. c. 6. & 5. El. c. 17.

If any man haue rauished a maid, widow, or wife, aboue tenne yeres of age, against her will, though she consented afterward, W. 1. c. 34.

If any man haue carnally knowne and abused a woman child, vnder tenne yeres of age, though she consent before, 18 El. c. 7.

If any person haue taken a maiden, widow or wife, hauing lands, or goods, or being heirs apparant to any, against her will vnlawfully, (other then his ward or bondwoman;) and of his procurers abettors, & receiuers, knowing thereof, 3 H. 7. c. 2.

If any person being married, shall marie any other, the former husband or wife being alive (other then such person, whose husband or wife hath remained beyonde the sea seven yeares together, or hath absented him or her selfe one from the other seven yeares together within the kings Dominions, the one not knowing the other to be liuing, or that was at time of such marriage lawfully diuorced, or whose former mariage hath by sentence Ecclesiasticall bene declared to be void, or whose former mariage was had within age of consent.) 1. Jac. c. 11.

If any person haue robbed another, going robbard,

Cutpurses.
Robberhouse.

or riding by the way, or otherwise, how much
or how little soever it be that he taketh from
him: or haue priuily and fraudulently picked
or cut the of purse another, being vpon him,
18. Eliz. cap. 4. Or haue robbed any house by
day, or by night, any person being in the same,
or thereby put in feare: Or haue robbed any
person in any part of his dwelling, the owner
wife, children, or seruants being therein,
or within any other place within the precinct
thereof, and then being waking, or sleeping:
Or haue robbed any person being in a Tent
or Booth, in a faire or Market, the owner,
his wife, children, or any seruant being then
within the same, sleeping or waking, 5. Ed.
6. cap. 9. Or hath robbed by day time (though
no person were then therein) any dwelling
house or outhouse there to vsed, and hath taken
thence goods to the worth of v. s. or above,
39. El. c. 15.

Larceny and
petit Larceny

If any person or persons, haue feloniously
taken the goods of any other: and whether
the same be above twelue pence in value, or
vnder.

Barreners.

If any Puruey or for the Kings Maiesties
house, or his Undertaker, Deputie, or ser-
uant, haue made any Puruiance without
warrant, and haue carried any thing away
against the consent of the owner, being above
twelue pence in value, 28. Edw. 1. cap. 2. 18. E.
3. cap. vltim. 5. Edw. 3. cap. 4. 2. & 3. Phil. &

Mar.

Mar. cap. 6.

If any Purueior of the B. or his undertaker, deputie, or seruant, haue taken any carriage in any other manner then is contained in his commission, 36.E.3. cap. 2. Or haue made purueiance without the testimonie and appraisement of the Constable, and foure honest men of the towne, & without deliuering tales or Indentures vnder his seale, testifying his purueiances, the goods being aboue 12. pence in value, 5.E.3. cap. 2. 25. E.3. cap. 1. Or hath taken any shep with their wolfs between Easter and Midsemer, at small prises, and caried them to his owne house, and shorne them, 25. E.3. ca. 15.

Quere, if the felonie of Purueiors (made 36. E.3. ca. 6.) be not altered by 23. H.6. ca. 14.

If any person haue found a Falcon, Tercel, *Hawkes.* let, Lano, Laneret, or other Falcon that was lost, and hath not forthwith brought it to the Sherife, that hee might proclame it, but did steale and carrie away the same, 34.E.3. ca. 22. 37.E.3. c. 19.

If any seruant (being 18. yerres of age, and not being an Apprentice) hath gone away with, or hath conuerted to his owne vse, any money, tewels, goods or cattels of his masters or mistresses, and of his or her delinergie to keepe, of the value of 11.s. to the intent to steale y^e same, 21. H.8. c. 7. 5. El. ca. 10.

Seruant embezzeling goods delinered.

If any person haue by night broken any house,

Burglarie.**Burne house
or barn.****Breaks pri-
son.****Convey in-
struction, or vic-
tuals,****Hunting by
night.**

house, tower, wallen or gates, and hath entred in with an intent to doe any robberie murder, or other felonious act there: Or if any person haue burned any dwelling house: or haue by night burned any barns next to a dwelling house.

If any person imprisoned for felonie, haue broken the prison, 1.E.2. Or if any other person haue broken the prison for such a prisoner, by which he escapeth: Or if any Gaoler haue willingly suffered such a prisoner to escape: or if any person, being arrested for felonie, haue bene rescued, and by whom.

If any person, hauing the charge or custody of any Armo^r, Ordnance, Munition, Shot, Powder, or habiliments of Warre of the R. Maiesties, or of any victuals (provided for the victualling of any Souldiers, Gunners, P^rincers, or Pioners) shall for any lucre, or gain, wiltingly, aduisedly, and of purpose to hinder or impeach his Maiesties seruice, embestle, or convey away any of the same, to the value of xx. shillings at once, or at severall times, 31. El. cap. 4.

If any person haue unlawfully hunted in the night, in any Forrest, Parke, or Warren, or in painted faces, visors, or other disguisings, to the intent to be unknowne, and haue upon examination by one of the R. Counsel, or by a Justice of peace of the same shire, wilfully concealed such hunters or hunting, or haue disobeyed any

any arrest for such hunting, or made rescue to any person warranted to arrest such hunter so that the warrant was not executed, 1. H. 7. c. 7.

If any person haue practised the arts of magic, Multiplying
multiplication of gold or silver, 5. H. 4. cap. 4.

If any haue the second time brought, sent, or Convey they
received, into any ship or bottomes, any rams, sheep, or lads, being alive, to be conveyed out of the R. Dominions, or procured the same, 8. El. c. 3.

If any person infected with the Plague, and Infected with
commanded to keepe house, haue wilfully and the plague.
contemptuously gone abroad and conversed in company, having any infectious soze upon him uncured, 1. Jac. cap. 31.

If any persons (of or above the number of Rebellious
twelve) haue bene assembled, and haue entered, gon about, & practised with force of armes, assembly.
unlawfully to change any lawes of this realme or to cut or cast downe any inclosure of parkes, or inclosed ground, or the bankes of any fishpond, or any conduit head or pipe, to the intent they should lie open, or void, or to haue any Common or way there: Or to destroy the Deer or Conies in any Parke or Warren, or Dovehouses, or fish in Pools, or in Ponds, or to cut downe any houses, barnes, milles, or hayes, or to burne any stack of coynes or graine, or other usuall sustenance of men: and (being commanded by the Sherife, or any Iustice of the peace of the shire, or by the Maior, Sherife, Iustice of peace, or Bailifes of the city, borough,

o2 corporat towne, where the assembly was, by proclamation in þ Kings name to depart to their houses (haue notwithstanding continued together one houre after, o2 haue after that, forcibly attempted to do any such thing.

And if any person haue unlawfully by ringing of Bell, sounding of Trumpet, Drumme, Hoene, o2 other Instrument, o2 by firing of Beacon, o2 by malicious speech, o2 Outcry, o2 by setting vp, o2 casting any writing, o2 by any other act raised, o2 caused to be raised twelue persons, o2 haue, in such maner & to any such intent as is aforesaid, & they (being commanded by proclamation, as before) haue nevertheless continued together one houre after o2 haue afterward attempted forcibly to do any of þ said things: And if any þ wife, o2 seruant of any the said assembled persons, o2 if any other person haue willingly & without compulsion deliuered o2 conueied money, harnesse, weapon, o2 victual to any of the said persons assembled during their aboad together as before. And if any person haue hindered o2 hurt any þ did proclaim o2 went to proclaime, as before; & if any the parties so assembled (knowing of that hinderance, o2 procuring it) haue neuertheless afterward committed o2 put in vye any the things aforesaid: And if any persons (to the number of fortie o2 moe) haue so assembled to the intent to doe any the said things, o2 any other felonious o2 rebellious act, and haue continued

tinued together thre houres, after such proclamation made, at oʒ nigh the place of assembly, oʒ in some market towne next adioyning, and after notice to them therof ginen, 1. Mar. Parl. 1. ca. 12. & 1. El. ca. 16.

If any Souldiour (entred a Souldiour of Record) and hauing taken part of the Kings wages, oʒ any Mariner oʒ Gunner (hauing taken prest wages to serue the King on the Sea) haue not accordingly gone to his captain (vnlesse he were lettred by notozious sickness, oʒ other impediment from God) oʒ haue departed from his Captaine, without his licence vnder his seals, 18. H. 6. cap. 19. 2. & 3. E. 6. cap. 2. 4. & 5. Phil. & Mar. cap. 3. & 5. Eliz. cap. 5. But consider whether this entering of Record, haue any vse now.

If any Strangers, calling themselves, oʒ being commonly called Egyptians, haue remained in the Realme one moneth: And if any person (being foureteene yeres of age) which hath bene seene, oʒ found in the fellowship of such Egyptians, oʒ which hath disguised himselfe like to them, haue remained hère, oʒ in Wales by the space of one moneth, either at one time, oʒ at severall times, 1. & 2. Phil. & Mar. cap. 4. 5. El. cap. 10.

If any dangerous Rogue, that was banished the Realme, oʒ adioynged perpetually to the Gallies, haue returned into the Realme without lawfull licence, 39. El. c. 4. 1. Ia. ca. 25.

**Dangerous
Wagor.**

If such Wagor after he hath bene banded in the open Sessions with a Romane R. upon the left shoulde, and sent to the place of his dwelling, the place where he last dwelt by the space of a yeare, or the place of his birth, to be placed in labour, haue offended againe in begging or wandring contrarie to the statute, 39.El.c.4: or this Act, 1.Iac.ca.7.

**Idle Woulde-
er and Part-
ner.**

If any Wouldeier, or Partner, or other person (as Wouldeier or Partner) haue wandred idle, without setting himselfe to service, labour, or other lawfull course of life, and hath not repaired to his place of birth, or dwelling: and had not a lawfull Testimoniall from a Justice of peace, of or nere the place where he landed: or hath counterfeited such Testimoniall, or hath caried the same (knowing it counterfeit) 39.El.cap.17. 1.Iac.c.25.

Felonies omitted.

Note that some felonies be here omitted, either because there is none vse of them now, or else for that they be for particular places, as:

Prouisours.

The felonie of Prouisours, 13.R.2.Sta.2.c.1.

Wools.

The felonie of Wools and Wool-sellers, 18.

H.6.c.15. and certaine felonies in the Statutes of the Staple, 27.Ed.3. whereof I doubt.

Powdike.

The felonie of Powdike, 12.H.8.ca.11.& 1.& 3.Phil.& Mar.c.19.

Armed.

It seemeth also by 25.E.3.c.2. that there was a felonie for riding armed, &c. which (I thinke) is not so construed now.

Records.

The felonie of Embeselling Records, 8.H.6: cap.12.

3f

If any person haue commanded, counsell'd ^{Accessories} ~~in~~ iuged, or procured to be committed any petit treason, treason, murder, manslaughter, Rape, Robberie, burglary, or other the felonies aforesaid.

If any persons knowing the said Felons, ^{Accessories} ~~in~~ haue receiued, comforted, aided, abettred, or furnished them, before their attainder, or after.

Hitherto of Felonies and their accessories in Lay causes, all which are punished by the pains of death, except petite Larceny.

If any person haue maimed another of any member, wherby he is the lesse able to fight as by putting out his eye, striking off his hand, finger, or foot, beating out his tootheth, or breaking his Scul : And of their Accessories. ^{Quare.} ^{Grueous fine.}

If any haue committed unlawfull assault, beating, wounding, or such like trespasses, ^{Trespass.} ^{Fine.} against the bodie of any man : Or haue with force against the Law take the goods of another, or haue done any trespass in the lands of another, Commission of the peace.

If any Ordinarie, Archdeacon, Official, ^{Excoption.} Sheriffe, Escheator, Coroner, Undersheriffe, Bailiffe, Gaoler, or other officer, haue by color ^{Fine.} of his office, or for doing his office, taken a greater, or more excessive reward or fee than belongeth to him : or haue taken any fee or reward for expedition in doing his office or haue unlawfully exacted any oath or other undue thing, Commission of the peace.

If any Escheator (other then of such a Citie, ^{Escheator.} Borough

Lose fortie
pound.

Lose fortie
pound.

Lose fortie
pound.

Sherifes and
their Min-
isters, &c.

Forfeit fortie
pound and
lose treble
damages to
the partie.

borough, or towne, as hath authoritie to make Escheatores within themselves by Letters Patents of the King, or his progenitors) have taken upon him that Office in this shire, or occupied in this shire, or another, and had not then in this shire, lands, tenements, or rents, for life at the least of 20. l. by yeare: or have sold or set to farms that office, or made any deputies for whom he will not answer, and whose names he hath not certified within 20. daies after into the Eschequer, 12. E. 4. 9.

Or if any Escheator hath taken for the execution of any *Diem clausit extremum*, or other Writ in one Countie, above xl. s. in all: or that xl. s. where the lands are not found to be holden *in capite*, 23. H. 6. cap. 17. & Firzh. 143. Or hath taken for the finding of any office of lands (not exceeding five pounds by yeare) above xv. s. in all, for all the things thereof, 23. H. 8. c. 22.

If any Sherife have letten his Countie, or any his Bailiwikes, Hundredes or Wapentakes: or have returned in any pannels, any balifes, officers, or their seruants, or seruants seruants, or have refused to let to Baile (vpon sufficient sureties) any person being in his custody, because of any action personal, or because of endowment in trespass, & not being in for any Condemnation, Execution, Attlawrie, Excommunication, Suretie of the Peace, or commanded of any Justice, or for being a vagabond:

Or

Whiche haue taken any obligation by colour of his office, but only to himselfe and vpon the name of his office, & vpon condition only to appeare according to the writ or warrant: or haue taken for an arrest about xx. d. Whiche if he, or any other minister, haue taken any thing for making of any Returne or Warrant: or about 4. d. for the copy of a Warrant: or about 4. d. for the said obligation, or for any warrant or precept: or any Bailiffe about 4. d. for making any arrest: or the Gaoler about foure pence vpon the committing to his Ward of any person arrested, or attached, 23. H. 6. c. 10.

If any Sheriffe, or other his minister, haue arrested, or imprisoned, or caused any fine, or rancome, or amerciamment to be leuied of any person, by reason of any Enditement or presentment made in the Sheriffes turne, or lawday, without proces from the Iustices of peace for y^e same first obtained: or haue not brought in such enditements and presentments to the Iustices of the peace, at their next Sessions, pound. 1. E. 4. c. 2.

If any Sheriffe, or any his ministers, haue entred into his booke, any plaints in any mans name not being present at the Court, either in his own person, or by sufficient and honest attorney or deputie: Whiche haue entred any more plaints then the plaintife supposeth y^e he hath cause of action for: Whiche haue leuied the shire a-

Ce

merciamment.

Sheriffes arrest-
ing, or le-
uying fine for
Enditements
in his turne.

Lose fortie
pound.

Sheriffes
entring of
plaints, and
leuying amer-
ciamments.
Lose fortie
shillings.

Writhe for-
aung warrant.

marriments without booke indetted betwene
them and two Just. of the peace: or if þe bailiff
of the Hundred haue made default in warning
or executing any warrant against any defen-
dant in the Sherifes Court. 11. H. 7. cap. 15.

Sheriffes
must shew the
estreats un-
der the Es-
chequer
Seale.

Fine to the King,
treble damages
to the partie.

If any Sherife or his Writ-
ter haue leuied any the debts
of the king, without shewing
to the parties the estreats of
the same, vnder the seale of the Eschequer, 41.
E. 3. cap. 9. & 7. H. 4. ca. 3.

Sheriffes to
returne addi-
tions of Ju-
rors:

If any Sherife of this shire, or any other per-
son to whom it appertained to make returne of
any writ hath returned any Juror without
the true addition of the place of his abode at þe
time of that returne, or within a yere next be-
foze, or without some other additiõ by which
Juror might well be knowne: If any Estrail
of issues hath bene gathered of any person, e-
ther then such as by vertue of the said Estrail
was of right chargeable or charged therewith,
27. El. ca. 7.

Five markes
to the king.
Five markes
to the party.

If he that taketh vpon him to be the vnder
sherife of this shire, hath not (befoze his exer-
cising of that office) taken the oath of the sup-
plicate, and the oath of his Office, befoze the
Justices of Assise or one of them, or befoze the
Custos Rotulorum, or two Justices of the peace,
the one being of the Quorum.

Under the
sheriffes clarkes
a bailiff to
be sworn.

If any Bailiffe of franchise, deputie, (or
clark)

Clarke) of the Shire, or vnder Sheriffe, or other person taking upon him to returne any Enquest, Iurie, or Tales, or to medle with the execution of proccesse in any Court of Record, haue not before that reigned and taken the said oath of Supremacie, and the oath (appointed for such Officer to take) before some of the said Iustices, after this maner.

Leale foris
pound.

I, A. B. shall not vse or exercise the Office of Vndersheriffe (Deputie, Clarke, Bailiffe, &c.) corruptly during the time that I shall remaine therein: Neither shall or will accept, receiue, or take, by any colour, meanes, or deuise whatsoever, or consent to the taking of any manner of fee, or reward of any person, or persons for the empanelling, or returning of any enquest, Iurie, or Tales, in any Court of record for the king, or betwixt party and party, aboue 1. s. or the value thereof, or such fees as are allowed or appointed for the same by the Lawes and Statutes of this Realme: But will according to my power, truly and indifferently with convenient speed impanell all Iurors, and returne all such Writs touching the same, as shall appertaine to be don by my dutie or office, during the time that I shall remaine in the said office. So helpe me God.

If any vndersheriffe, or other of the sayd persons, hath committed any Act contrary to the said othes, 17. Eliz. cap. 12.

Treble damages to
the partie.

**Sheriffe and
Gaoler.
Fine.**

If any Sheriffe or Gaoler have denied to receive felons, by the delivrie of any Constables or towneships, or have taken any thing for receivung of such, 4 E. 3. cap. 10.

**Sheriffe,
Baillife &c.
Double the
value of
such forfei-
tures.**

If any Sheriffe, Baillife, or other officer or person, have refused to pay over to the Churchwardens and Overseers of the poore, the moities of the forfeitures by the Statute 4. lac. against utterance of Here or Ale to Alehousekeepers Unlicenced, 4. lac. 4.

**Fers in
Liberties.**

In Liberties, the Baillifes, Stewards, and other ministers there, have like fers, and punishments for Extortion, as Sheriffes and their ministers have out of Liberties, 27. H. 8. cap. 7.

Coyoner.

If any Coyoner have refused to doe his office upon the view of a dead body by misadventure, without taking any fee therfore, 1. H. 8. ca. 7. or have taken upon the view of the dead bodie of a man slaine or murdered, above six s. liij. d. of the goods of the slayer or murderer, if he had goods, or (otherwise) of the Town where he was slaine in the day time, and was suffered to escape, 3. H. 7. cap. 1.

**Loose five
pound.**

If any Ordinarie, or his Scribe, or Receiver have taken more, or greater fees, for the probate of a Testament, or for Letters of Administration, then hee ought to take, that is to say, 6. d. for the Scribe, for writing the probate of a Testament, that shall be brought written in parchment, and likewise five pence

Ordinarie.

**Loose x. li. &
to the parry
so much as
is taken con-
trary to this
act.**

for the Administration, where the goods of the
 Testator, or Intestate, be not above v.li. If
 the goods be above five pounds, and not above
 forty pounds, then two shillings five pence
 for the Ordinary, and twelve pence for the
 Scribe. If they exceed forty pounds, then
 two shillings five pence for the Ordinary, and
 s. s. 6. d. to the Scribe, or else one penny
 for every tenne lines at ten inches length, at
 the Scribes election; the like shall be given
 for every copie of a Testament or Inuentory,
 or else after the rate of lines as before, 21. H.
 8. cap. 5.

If any parson, Vicar, or Curate, haue taken Parson.
Vicar.
Curate.
 above foure pence for entring into þ Church
 to take the licence of a sick person to eate flesh
 upon the fish dayes, 5. Eliz. cap. 5. Or above
 two pence for Registring of a Testimoniall of
 any seruant, departing from one place to ano-
 ther, 5. Eliz. c. 4.

If any spiritual person (or any other for him) Doytnary.
 haue taken Mortuarie (or corpes present) or any
 thing for the same in any place, where þ same
 was not vsed to be given before the one & twen-
 tie yere of R. Henry þ eight: or taken (in pla-
 ces where Mortuarie were the vsed) any thing
 for a Mortuary where the goods of þ dead per-
 son were vnder ten markes: or more the thre
 shillings foure pence therfore, where þ goods
 were of the value of tenn markes, and vnder
 thirtie pounds; or above five shillings & eight

Forfeit so
 much as he
 shall take o-
 uer: & loose
 xl. s. to the
 partie gree-
 ued.

pence thereto, where the goods were vnder
xl. pounds: or aboue ten shillings where the
goods were aboue xl. l. 2 s. H. 6. c. 5.

Clerke of the
Peace.

Fine.

Fine.

Fine.

If the Clerke of the Peace haue taken a
boue twelue pence for the enrolling of the bar-
gaine and sale of any land, not exceeding forty
shillings by the yeare: or aboue two shillings
6. pence if the land exceed that value by 2 yeres,
27. H. 8. c. 16. Or haue taken aboue two shil-
lings in all, for any licence and Recognisance
of a badger, dower, hidder, or labor, and for the
Registring thereof, 5. Eliz. c. 12. Or haue taken
aboue xij. d. for a Recognisance of him that
taketh a Rogue into his seruice for one yere,
14. El. cap. 5.

Forfeiture.

Or if the Clerke of the Peace or the towne
clerke haue not accepted, entered, and recorded,
without fee, the presentments at the quarter
Sessions of the monethly absence from Church
of popish Recusants, and of the names of their
children of nine yeres old and upward, bidding
with their parents, and of the names of the
seruants of such Recusants, appointed to be
made by the Churchwardens and Constables,
or some of them, or by the chiefe Constables of
the Hundred, according to the statute, 3. Ja-
cob. cap. 4.

Indicted
Clerke.

Fine.

Forfeiture of
the market.

If the Clarke of any Justice of Peace haue
taken aboue xij. d. for any Recognisance of an
Alehouse keeper, or Tipler, 5. E. 6. c. 25.

If the Clarke of the Market haue taken any

com.

common fine, to dispencc with faults: oꝛ hath
 riddcn with moe then fire hoꝛ. 1 s. 2. li.
 ses, oꝛ hath tarried longer in *Officer* 2 s. 10. l.
 the countrie then the necessi. 3 s. 20. l.
 tis of his businesse required, 13 R. 2. c. 4.

If any officer haue in any Towne taken *Demage.*
Loſe twentie
pound.
 pꝛauage, oꝛ *Shelwage* (that is to say) any
 thing foꝛ the thetming of ware, oꝛ marchan-
 dise that be truly custumed to the King befoꝛe
 19. H. 7. c. 8.

If the *Mayor* of this Towne of Maidstone *Beate:*
twelues.
 (and so of other townes in other shires) haue ta-
 ken aboue one penny foꝛ sealing a burthel mea-
 sure: oꝛ aboue one penny foꝛ sealing an hun-
 dred weight, oꝛ aboue a halfe penny foꝛ halfe a
 hundred weight, oꝛ aboue a farthing foꝛ any
 lesse weight, 7. H. 7. c. 3. & 11. H. 7. c. 4. *Loſe ſerie*
ſhillings.
Fees omitted.

Sundrie other fees of Officers there be, as of
 Aulnageors, Gaugeors, Sericants & armer, and
 others whereof there is not so common vse, and
 therefore I omit them: Howbeit, such are en-
 quirable, and punishable here also.

If the Churchwardens & Constables of eue- *Church-ward-*
 ry town, parish, oꝛ chappel, oꝛ some one of the, *ben.*
 oꝛ where there be none such, & Constable of & *Constable.*
 hundred, hath not once enery yere presented at *High Com-*
 & quarter *Just.* & monthly absence from church *Forfeite xli.*
 of *Popish* recusants, and the names of enery of
 their childꝛe (of 9. yeres old & aboue, abiding wth
 their parents) & as neere as they could the age

of the said children, and the names of the servants of such Recusants, 3. l. a. c. 4.

Church-wardens.

Overseers of the poore.

Double the value of the forfeitures.

If any Churchwardens and overseers of the poore, (to whom the money forfeited by 4. l. a. c. 4. for uttering of Beere or Ale to Tiplers unlicensed, hath been paid by the Officer or other person, that hath levied or received the same) haue not within convenient time truly bestowed the same amongst the poore, 4. l. a. c. 4.

The Constables and Churchwardens neglecting their duties, touching the Stat. 1. l. a. c. 9. against Tiplers, doe thereby forfeit xl. s. and the Constable or other inferior Officer neglecting the correction of drunkards, and leuying their forfeitures (by 4. l. a. c. 5.) forfeit x. s. which offences are inquirable & presetable before Iustices of the peace, by the said Stat. 4. l. a. c. 5.

Wardens.
Constables.
Bootholder

If any Wardens of the Kings Wa. haue taken any thing of the value of xl. s. or under

Lose
Double
Double
Double

without readie payment thereof made: if any Constable or Boothholder haue not (upon request made) assisted y owners to resist y Wardens so taking.

Lose twentie pound.

king. And any of the Kings officers haue procured any to be arrested or bared for such resistance, 20. H. 6. c. 8 & 23. H. 6. c. 2.

Lose fortie shillings for each tree.

If any Warden of timber haue felled for the kings use any Waken timber tree, meet to be harked, but onely in harking time (other then trees for building or repairs of the Kings houses or ships :) Or haue taken any profit by the

shelops, tops, or barke of any trees taken by him: Or haue taken from the owner any more of any tree then onely the timber of the same tree, 1. Jac. c. 21.

If any Purueio: haue taken any thing of Two yerres imprisonment: treble damages and ransom.
any man, to the end to spare him: or haue taken cozne by any other measure then by the striked bushel, or by any more then eight such bushels to the quarter: or haue taken cartiage therefore, without making readie payment, 15. Ed. 3. c. 1. 36. E. 3. ca. 3. & 1. H. 5. c. 10.

One yerres imprisonment.
Five pounds to the king.
and five pounds to the partie.

Of Purueio:rs within five miles of *Oxford*, *Vniuersities*, or *Cambridge*, See 2. & 3. Ph. & M. c. 15. 14. El. c. 11. & 39. El. ca. 18.

If any common Informer or Promoter (as Informer. he is commonly called) haue compounded or Lose x. li. and agreed with any person, for any offence against stand on the any penall Lawe, without the order or consent of some of the Courts at Westminster, or haue wilfully delayed or discontinued his suite once commenced, 18. El. cap. 5 & 27. Eli. cap. 10.

If any man haue raised Hue and Cry without cause, or (being raised) upon good cause, haue not bene ready at the commandment of the Sherife, or at the Hue and Cry of the Fine Countre, to pursue and arrest felons, or such as haue dangerously hurt any man: And if

If the Sheriffe or any Bailiffs haue not followed such Day and Cry with hoys and Armoꝝ, W.1.3.Ed.1.ca.9.3.E.1. *Officijs Coronatoris*, Stat. Winch.13.E.1.

Watch.

Fine.

If the watch in euery Borough and towne, haue bene kept from Sun rising to Sun setting, betwene Ascencion day, and Michaelmas day, to arrest strangers that passe by in the night season, Stat. Winton.13.Ed.1.

Hightwayes.

If any Lord of the soile haue not enlarged the hightway from market to market so that no dike, bush, noꝝ tre (except great trees) be within two hundred foote of each side thereof, Stat. Winch.13.E.1.

Whe of goe armed.

If any persons (except the Kings seruants and officers in doing their seruices, and their companie, aiding them in that behalfe) haue ridden or gone armed, by day or night: or haue brought foꝛce in affaies of the people befoꝛe þe Kings Iustices, or otherwise, Stat. Northamp.2.Ed.3.ca.3.

Escape by negligence.

If any person arrested, or imprisoned foꝛ felonie, haue bin negligently suffered to escape,

Fine.

1.R.3.c.3.

Barrettoꝝ.

Maintainers.

Embrazers.

Prisonment and good A-
bearing.

If any be a Barrettoꝝ, or a common quar-
relleꝝ, or otherwise of euil name and fame, 34.

Ed.3.ca.1. Or a maintainer of quar-
rels, or an Embrazer of Iuries 33.

Ten times so much as hee
taketh, or a yeares im-
prisonment,

H.8.ca.10. & 37.H.8.c.7. & 38.E.3.
cap.13.

Barrettoꝝ.

The word (Barretor) may bee deriued ei-
ther

ther of the French *Barat* (& so it seemeth to bee taken in the Statute of Champerty, W. 2. c. 49.) signifying deceit, so that Barreitor should notifie a deceiuer; or els of the Latin *Baratro* or *Baratro*, (as some write it) which betokeneth a vile knaue or vnchrist, and (by a *Metaphor*) a spot in the common wealth: But whatsoeuer the word doth properly denote, commo v^e (*Quem penes arbitrium est, & ius, & norma loquendi*) taketh it for a common quarreler, or maintainer of quarrels: and in that sence I thinke it to stand in the old Statute called *Ragman*, and it meaneth him that medleth in the quarrels of other men, whether it be by fight, or by suit in Law.

If any be a Champartour, that is to say, one Champertous that m^oueth pleas o^r suites, o^r causeth o^r procureth them to be m^oued at his owne costs, to the end to haue part of the land, o^r other thing in variance, 33. Ed. 1. Fine.

If any Iuro^r in any Inquest here, haue taken any thing of any man to make his presentment fauourable. Tortour.
Imprisonment
and ranfome.

If any person haue by himselfe, o^r other for him, giuen any Lincie of signe o^r company, o^r badge, o^r retained any man, o^r ther then his household seruant, o^r sicke, o^r learned man in the Lawe 1. Hen. 4. ca. 7. 1. H. 4. cap. 12. & 8. Mistries of
Companies,
and badges.
Prisonment, fine and ranfome
v. li. lose to the re-
tainor, & the like } for each
to the retained. } month.
E. 4. c. 2.

If any companie of men (other then men of Loose sortie fraternities, and men of Artes in Cities and Shillings.
Boroughs)

Bozoughs) haue made any one generall sorte of cloth, hoods or hats amongst them, to be knowne by, 7. H. 4. cap. 14.

Fifth.
Prisonment.

If any person haue by wytyng, or open speech notified, that the eating of fish, or for bearing of flesh, vpon any daies, now vsually obserued as fish daies, is of necessitie for saluation of Soules, or is the seruice of God, otherwise then as other politike Lawes be, 5. E. cap. 5.

False tokens
or letters.
Suffer any corporal paine, except death.

If any person haue falsly and deceitfully gotten into his possession any money, or any other things of any other mans, by colour of false priuie token, or of counterfeited letter, made in another mans name, 35. H. 8. c. 1.

Who be
Hogues.

If any person (aboue the age of seven yeres) calling himselfe a Scholler, hath gone about begging: Or if any Sea-faring man (not hauing suffered shipwacke, nor hauing a lawfull testimoniall from a Justice of Peace, or, or where the place where he landed) haue gone about begging, or haue transgressed such Testimoniall: Or if any Idle person haue gone about begging, or haue vsed any subtil craft, or vnlawfull game or play, or haue feined knowledge in Whislognomie, Palmestry, or other like craftie Sciences, or haue pretended to tel Destinies, Fortunes, or such like phantasticall imaginations: Or haue vttered himselfe to be a Proctor, Procurer, Patent gatherer, or Collector, for any Gaole, Prison, or Hospitall:

To be whip-
ped.

tall: D; if any Fencer, Beareward, Winstrel,
or common Player of Enterluds, Jugler,
Linker, Pedler, petty Chapma, or Glasfeman,
haue wandered abroad: D; if any wandering
person, or common Labourer, (not having o-
therwise then by labour to maintain himselfe)
being able of body, haue bled loytering, or re-
fused to worke for lawfull wages: D; if any per-
son delinered out of Gaols, haue begged for
fies, or traualled begging, or pretending losse
by fire, or otherwise, haue wandred begging:
D; if any (not being a Felon) haue pretended
to bee an Egyptian, or haue wandred in the
forme, or habit of counterfeit Egyptians: D;
if any impotent or diseased person (licenced by
two Iustices of the peace, to goe to Bathe, or
Burton) haue not so; borne to begge, or haue
not returned according to s^ch licence: D; if a-
ny poore person (appointed to aske reliefe in the
same Parish, by the Churchwardens and O-
uerscers thereof) shall beg in any other sort the
is so appointed. & or all such be declared, to be
Rogues, Vagabonds, and sturdy beggers, 39.
El. cap. 3. & 4. See 1. I. a. c. 7. that Players in En-
terluds and Glasfemen shall be within the de-
gree of Rogues: & 1. I. a. c. 31. That such as wil-
fully go abroad out of houses infected with the
Plague, though they haue no soare about them,
are punishable as vagabonds by the Statute 39.
El. c. 4: & 7. I. a. c. 4. That able persons running
out of their parishes leauing their families vpon
the

the parish, shall bee deemed, and endure the paines of incorrigible Rogues.

The worst Rogue is but a late Guest in our Law: for the eldest Statutes call such a one, a valiant, strong, or sturdy Begger and vagabond, and it seemeth to be fetched from the Latin Rogator, an asker, or Begger, and in which sence Marciall the Poet long since blest it saying:

*Inter rancos ultimis Rogatores,
Ores caninas panis improbi buccas.*

And ranged last among the roaring Rogues,
In vaine a morfell may he beg of bread,
So bad, as hungry dogs disdain to bite.

Officers not
punishing or
conveying
Rogues.

Loose 10. s. for
each offence,

Parish and
Rogues.
Forfeit v. li. &
be bound to
good behavior

If any Constable, Bozsholder, or Tything man, haue not done his best indenuor to apprehend such Rogues as haue begged, or made aboad within their Limits, or haue wilfully suffered any of them to escape punishment.

If any such Officers haue not conveyed such Rogues, towarde their places of birth or last dwelling: See r. l. ac. cap. 7.) Or if any person haue hindered, by Rescous, or otherwise, the execution of these Statutes of Rogues, or of the Poze, 39. El. c. 3. & 4.

If any the Churchwardens and Overseers of any parish haue not taken order for setting to worke, or for reliefe of their poze: or haue not assessed the inhabitants and occupiers of lands

Loose 10. s.

lands in their Parish thereof: or haue not en-
dowed to leuie such assesses: or haue absented
themselves from their monthly meeting, or
haue not accounted as they ought, 39. El. cap. 3.

If any Parents or children, being of suffi-
cient abilitie, haue not relieved their poore and
impotent children or parents, at their owne
charges, in such sort as hath at any Quarter
sessions of the peace bene appointed for them
to doe: Or if the Minister of any Parish haue
not kept a Register booke of the testimonials
for Rogues, 39. El. cap. 3. & 4.

Imprisonment

Loose 10 s. for
euery month.

Loose 10 s. for
euery default.

If any persons (to the number of three or a
house) haue bene riotously assembled, to beate
any man, to enter vpon a possession, or to do a-
ny such unlawfull act, & haue done it indeed, or
attempted to doe it: Or haue bene assembled
together in Routs for any common quarrell,
or otherwise unlawfully against the R. State,
sties peace, 1. H. 6. cap. 5. Commission, vnder
the name of Conventicles.

Riots, routs,
unlawfull as-
semblies.

Prisonment
and fine.

If any persons (aboue the number of two,
and vnder twelue) being assembled, haue in-
tended unlawfully with force to murder or
kill any of the Kings subiects: Or to cut or
cast downe any inclosure, or bankes of any
Fishpond, or conduit head or pipe, or to do any
the deeds (mentioned in unlawfull assemblies
before) and haue not departed vpon procla-
mation, but haue attempted to do any of these
things.

Rebellious
assemblies.

One yerres pri-
sonment, and
treble dama-
ges to the
partie grieved
and costs.

9. Moneths
prisonment.

¶ If any person (being moved to make any rebellious assembly) haue not within twenty foure houres after disclosed the same to a Justice of the Peace, or to the Sherife: ¶ If any person haue stirred or procured any other to make such assembly, 1. Mar. Par. 1. cap. 12. 1. El. cap. 17.

Asping in a
nest.
Fine.

¶ If any haue lien in awaite, to maim, or kill any other.

¶ If any haue entred into lands or possessions with force, or entring peaceably, haue holden the same with force, 3. H. 6. c. 9.

Forcible en-
tries.

Prisonment,
and fine.

Cut Bonde
head, fish, hunt
Dere, take
Hawkes, or
their Egges.

Three months
prisonment, &
bound to his
good behavior
for 7. years.

¶ If any person haue vnlawfully broken, or destroyed the head or damme of any Bonde, Spote, Stewe, or seuerall pitte wherein fishes are put by the owner thereof: ¶ If any haue wrongfully stired in any of the same, to the intent to take away the fish against the owners will: ¶ If any haue wrongfully entred into any parke or other ground, before the statute inclosed, or after this statute, (by the licence of the king) to be inclosed, and used so; keeping of dere, and haue wrongfully hunted, driven out, hurt or killed any Dere there: ¶ If any person haue vnlawfully taken away any Hauke, or the egges of any Hauke out of the woods or grounds of any other person, 5. Eliz. ca. 21. See 3. 12. cap. 13.

Take Haukes
egges: take
Hawkes or
dine them
away.

¶ If any person haue taken, or caused to be taken vpon his owne, or other mens ground, the egges of any Falcon, Goshawke, Laner,

or

Whanne, o; haue taken any Citer, Falcon,
Goshawke, Tercel, Lanner, o; One yeres & a daies per-
sonment and fine.
Lanneret, o; haue purposely winen them out of their conetts : o; haue Lose ten pound.
boine any hawke of the breed of Eng. Lose of the Hawke.
glaid called a Piesse, Goshawke, Tassel, Lan- Piesse hawke
ner, o; Lanneret, 11. H. 7. ca. 17.

If any Artificer, Labozer, o; other Lay man, Dogs, Cats,
not hauing lands o; tenements of xl.s. by yere, Ferrets.
o; any spiritual person aduanced to r.l. lining
by the yere, haue kept grayhound, hound, o; halwing in
other dogge to hunt : o; haue used ferrets,
nets, o; other engines, to take o; destroy hare,
hares, conies, o; other gentlemans game, 13.
R. 2. cap. 13.

If any person haue traced, killed & destroyed Trare Hare.
any Hare, in the snote, 14. H. 8. c. 10. Lose a Noble

If any person whatsoeuer, haue taken, o; for each Hare.
killed any Pheasant o; Partridges, with any Take Phe.
manner of net o; other deuise whatsoeuer, by, rridges. lants o; Par-
on the frehold of any other without special li- tridges.

cence, o; in the night time, except it
were untwillingly, by lo;wbelling
o; framelling, who also did then and
there presently let them goe againe: Lose

O; if any persn haue hawked, o; with his spa- Twentie shillings
niels hunted in any ground (not being his halwing in for each Pheasant.
town) where any coine o; grain, did then grow Coine.
o; besoze it was shocked, o; copped, without p
consent of the owner of such coine o; graine,
11. H. 7. c. 17. 23. Eliz. ca. 10. See 7. Jac. cap. 11. Lost forie
shillings.

Three months
imprisonment
vnlesse he pay
for euerie Fe-
sant &c. xli.
&c.

If any person haue shot at, killed, or destroyed
with gun, crosbow, stonbow, or longbow, any
fesant, partridge, house-dove, or pigeon, heron,
mallard, ducke, teal, widgeon, grouse, heath-
cocke, mozegame, or any such fowls, or any
hare: Or haue taken, killed, or destroyed any
fesant, Partridge, House-dove, or Pigeon,
with setting dogs & nets, or other engine: Or
haue taken the eggs of any fesant, Partridge,
or Swans, or willingly destroyed the same,
in the nests: Or haue traced, or coursed any
hare in the snow, or taken any hare with
harepipes, cords, or any such instruments or
engines, 1. Jac. c. 27. See 7. Jac. ca. 18. that hee
that hath inheritance of 40. li. yerely, Freehold
of 80. li. yerely, or is woorth in goods 400. li.
and their meniall seruants thereto authorized,
may take Fesants and Partridges in the day
time, vpon their owne and their Masters free
Warten, Mannor, and Freehold betweene Mi-
chaelmas and Christmas.

Grayhound
setting dog,
&c.

If any person keepeth any Grayhound, or
coursing of Deere or hare, or setting dogges, or
net to take fesants, or Partridges (not being
seised of some estate of Inheritance, of lands,
tenements, or hereditaments, in his owne right,
or in the right of his wife, of 2. yerely value
10. pounds: Or of lands, tenements, or heredi-
taments, in his owne, or wiues right, for 10. years
of life, of the yerely value of 100. li. nor being
possessed of goods to the value of 200. l. to be
owne

Imprisonment
2. months, vn-
lesse he pay xl.
s. to the vic of
the poore.

Wardens: For being the Sonne of a Knight,
Baron of the Parliament, or of some higher
degree, or Sonne and heire apparant of an
Esquire.)

If any person haue sold, or hath bought
to sell again, any Ware, Ware, partridge,
or Fesant (not brought up in house) 1. For e-
uery. 3. lac. cap. 27.

Ware etc.
Deere x. s.
Hare xx. s.
Partridge x. s.
Fesant xx. s.

If any person, in the night time, or by day, unlawfully
haue unlawfully broke, or entred into any hunting
Parke impaled, or other severall grounds in-
closed, used for the keeping of Ware: Or in the
night time haue unlawfully broke &c.

used for the keeping of Conies, and un-
lawfully haue hunted, or driven, or chased
out, or taken, killed, or slaine there any
Ware, or Conies, against the will of the
owners, occupiers, or possessors of the
same, not having lawfull authoritie
so to doe. 3. lac. cap. 23. and 7. lac.
cap. 13.

Imprisonment 3. Mo-
nethes.
Treble damages to the
party grieved (or for
Deere x. li. at electi-
on of the party grie-
ued)
Fines Suerries for his
good abearing seven
yeares.

If any person haue by himselfe, or any other, unlawfully
sold any Marchandises or wares, to any o-
ther, & haue within thre monethes next after
that, by himselfe, or by any other bought the
same, or any part thereof againe; upon a lesser
price, knowing them to be the same: Or if any
person haue by any corrupt bargain, mo-
gage, or other meanes, taken in gaine above
the rate of ten pounds for the hundred, for one
whole yeares forbearance, & so after that rate, and fined.

Loose the tre-
ble value, and
be imprisoned

to moue or lesse, 37. H. 8. cap. 9. 13. Eliz. cap. 8.
and 17. Eliz. cap. 11.

Forestallers,
Regrators.
Ingrossers.
Forestallers.

If any haue within these two yeares fore-
stalled, regrated, or ingrossed vnlawfully.

A Forestaller, is he that buyeth, or causeth to
be bought, or maketh con-

- Offence
1. Loose the goods, and be tract or promise for the ha-
prisoned. Moneths. uing or buying of any Vi-
 2. Loose double the goods, uall or Wares, comming
and bee 6. Moneths im- by land or water towards
 3. Loose the goods, and any Faire or Market to bee
prisoned. sold, or comming from be-
 4. Loose the goods, and any stand one Pillorie.

yond the Sea towards any Citie, Port, Hauens,
Creeke, or Road of this Realme to bee sold, be-
fore the same shall be in the Faire or Market,
Citie, Port, or Hauens ready to be sold: Or that
by any meanes maketh motion to any person
for enhancing the price of the same: Or that
doth disswade, moue, or stirre any person (com-
ming to the Market or Faire) to forbear to
bring any of the same to any Faire, Market, Ci-
tie, Port, or Hauens to be sold.

Regrator.

A Regrator is he that regrateth or getteth in-
to his possession, in any Faire, or Market, any
corne, wine, fish, butter, cheese, candles, tallow,
Sheepe, Lambes, Calues, Swine, Piggies, Geese,
Capons, Henne, Chickens, Pigeons, Conies, or
other dead viſtuall whafouer, brought to any
Faire or Market to be sold, and selleth the same
again in any Faire or Market kept there, or
within foure miles thereof.

Ingrosser.

An Ingrosser, is hee that ingrosseth or getteth into his hands by buying, contract, or promise taking (other then by demise, lease, or graunt of land or tithie) any Corne growing in the field, or other Corne or Graine, Butter, Cheefe, Fish, or other dead victuall, within England, to the intent to sell the same againe. But such as do buy Barley, or Oates, (without forestalling) & turne the same into Malt, or Oate-meale, and sell it againe: and such victuallers of all sorts, as buy victuall (without forestalling) and sell it by retaile againe, and Badgers, and Drouers (being lawfully licenced & not abusing their licences) are excepted. So bee all buyers of wines, oyles, spices, & other forreine victualls brought from beyond Sea hither, except fish and salt onely, 5. E. 6. cap. 14. 5. Eliz. cap. 12. 13. Eliz. cap. 25.

If any person haue within these two yeeres bought corn in any faire or market for change of his seed (hauing then sufficient for his house and for sowing his ground for a yeare) and did not bring thither (if he might) so much as hee did so buy, and did not the same day sell it after the price then going, 5. E. 6. cap. 14.

If any person haue (at any time within this yeere, the moneths of June, July, & August onely excepted) made any Barley Malt, that was not the time of 3. weekes (at the least) in the fat, stowe, steeping, & sufficient drying: & if in any of the said 3. months, & was not 17. daies (at the least) in the fat, stowe, steeping, and sufficient drying,

Should come.

Loose the double.

Making of Malt.

Loose twentie pence for euery quarter.

Dishonest

If any person haue within this yeare mingled any Malt not sufficiently made (or made of maltes burnt, or spiced Barley) with other good Malt, and after put the same to sale.

If any person hath within this yeare put to sale any Malt not sufficiently wel troden, cubbed, and fanned, whereby halfe a pecke of dust, or more may be fanned out of one quarter thereof. But this Act extendeth not to Malt made for the provision of a mans chiefe house or familie, 2 & 3. Ed. 6. ca. 16. and reuined 37. Eliz. cap. 14. 1. Jac. 37.

Imprisonment
3. daies and till
he be bound in
xl. pounds.

If any person (being lawfully restrained) touching his making of Malt haue not accordingly forborne to make the same, 39. Eliz. cap. 16.

Livestock.

If any person haue within these two yeeres bought Oxen, Horses, steeres, kine, heifers, calves, sheepe, lambs, goates, or kids, pyning, and sold of the same againe alive, before he hath kept them sixe weekes, 5. Ed. 6. ca. 14.

Loose the
double.

Barke.
Forfeit the
Barke.

If any person haue regrated, ingrossed, or got into his hands any Waken barke, to the intent to sell the same againe, 1. Jac. cap. 22.

Hides.

If any person haue forstalled any hides, or bought any hide out of open Market or Fayre, vniuers of such as haue killed beasts for their owne provision, 1. Jac. cap. 22.

Loose 6. s. 8. d.
for every hide.

Wollen yarn.

If any person haue bought any Wollen yarn, and haue not made Cloth thereof, 8. H. 8. cap. 5. D. haue bought any Wollen, but of the cloth

owner of the sheepe, and of the fith, 14.R. 2. ^{Loss the value}
cap. 4.

If any Butcher or other person, haue killed any twelving, bullocke, heere, or heifer (under the age of two yeres) to be sold whole, or by retails: Or haue killed any Calfs to sell, being under two weekes old, 24.H.8.c.9. 1.lac.cap. 25.&c 1.lac.c.22. ^{Ors.} ^{Calues under 5, weeks old.} ^{Loss a noble for each Calfs.}

If any person haue willingly (be- ^{Egges of wilde foule.} ^{Prisonment for a yere,} ^{and lose after a rate for each Egge.} ^{twelues the first of March and last of June in any yere) taken away, or destroyed the Egges of any wilde foule (used to be eaten) from the place where they did lay them 25.H.8.c.11. 1.E.6.ca.3.}

If any person (feeding about a hundred and twenty sheare sheepe) the most part of the yere, upon his grounds that be meet for milch kine, and wherein no person hath any com- ^{Loss XL. s. for euerie Month for each Cow, & the like for each Calfs.} ^{The like paine as the last be- fore.} mon) haue not for each 60. such sheepe reared one Calfs; during the time of keeping such sheepe, 2.&c 3.P.M.c.3. 13.Elcap.25. Or if any person feeding upon his severall pa- stures aboue 20. Oxen, Hents, heeres, scrubs, heifers, or kine, haue not for euerie tenne such beasts kept one milch Cow, and for euery two kine weaned and reared by yerely one Calfs, except it chance to die, ibid. What steadeth such sheepe or beasts onely to be spent in his house, is excepted, ibidem.

Salmons.

S If any person haue taken any Salmons, be-
 1 Burn the nets, twene the feast of the Natinitie of
 2 Three months
 3 Imprisonment.
Offe 2 One yerre im-
 3 prisonment. **D** If any person haue taken any Salmons at
 any mil pole, or other place between the mids-
 of Aprill and Whitsomer; or haue at any time
 cast into any waters any net, by which the fry
 of any fish may be taken, W. 2. c. 48. 13. R. 2.
 c. 19. 17. R. 2. c. 9.

Frie of fish.

I If any person haue with any net, or means,
 taken and killed any frie or spatone of any fish
 in any weate foudgate, streame, or riuer (salt
 or fresh) or at the tale of any Whil; or haue ta-
 ken there any Salmons or Trouts, out of sea-
 son, that is, being hippes, or shedders; or
 haue taken and killed any Wickerel under ten
 inches in length, or Salmon under sixteen in-
 ches, or Trout under eight inches, or barbell
 under twelue inches; or haue fished in any the
 said places with any net, but such wherof eue-
 ry mesh was two inches & a halfe by an; But
 angling is excepted, and so is the taking of
 Smelts, Loches, Spinetoes, Winheads, Gud-
 geons, and Celes, in places onely where they
 haue bene vsed to be taken, 1. Eliz. cap. 17. 14.
 Eliz. cap. 11. & 27. El. c. 17. 1. la. 25. Sec. 3. Lac.
 cap. 112.

**Salmons.
Trouts.**

Lose the fish
 and xx. s. for
 each offence.
Wise of fish.

Feta.**Angling.**

Whitnallers
 prices reason-
 able.

I If any Butcher, Fishmonger, Inholder,
 Driple, Brewer, Baker, potuiler, or other sel-
 ler of Whittall, haue not sold y same at reason-
 able

nable prices & for moderate gaines, Lose the double of that he received.

41. E. 1. c. 6. 12. R. 2. cap. 8.
If any Were brewer, or Ale brewer, have sold their drinke at higher prices then haue been appointed by the Iustices of peace, 23. H. 8. c. 4.

If any Butchers, Bakers, Biechers, Poulticers, Cooks, Fruiterers, or any mysterie of any of them haue conspired, or taken any oath, or promise, not to sel but at prices certain agreed betwene them, 1. Edw. 6. cap. 15.

If any Butcher haue sold or offered to sell Swines flesh mixed, or any flesh that died of the murraine:

Or if any other victualler haue sold, or offered to sell, any corrupt or unwholesome victuall, 24. H. 8. cap. 7. 51. H. 3.

If any person haue against proclamation therof made, transported or carried out of this Realme, any Coyne, Craine, or Salt, growing, or made here: Or any hære, butter, cheese or wood, in any vessel (except to Warwicke, or the Marches thereof) without sufficient authoritie, or any Sea fish, or Perring not taken by a naturall borne Subject here: Or haue by any means conveyed, or willingly consented to convey any of the said things to any vessell being on the Sea, or in any place

Butchers.

Lose sixe shillings for euerie barrell, and so after that rate.

Distillers conspiring.

1 Ten pounds or xx. daies imprisonment.
2 Twenty pounds or stand on pillorie.
3 xlii. or lose one eare and be infamous.

Corrupt.
Barrell.
Fine.

Transport
cayn, hære,
butter, cheese,
sea fish, perring, wood.

The owner of the vessell lose it.

The owner of victuall to lose the double value.

The master & mariners to lose their goods, and to haue a yeares imprisonment.

place of Haven of this Realme, to be transported over Sea, or into Scotland, without sufficient authoritie: Or if any person hauing licence to conuey any of the said things, haue freighted, or laden his vessel, or any part thereof, at any more places then one only, 1 & 2. Ph. & M.c. 5. 13. Eli. c. 11 & 13. See 1. lac. cap. 15. whereby it is lawfull to transport over the Sea, Corne and Graine, when it is at certaine prices, and the same to bee restrained againe by the Kings Proclamation. And See 3. lac. c. 11 for transporting of Beere, when Malt is not above 16 s. the Quarter.

**Butter and
Cheese.**

If any person haue bought (to sell againe) any Butter, or Cheese, vntlesse it be in open faire or Market, by retailing it after the way of Cheese, and barrel of Butter, or after a last quantitie: Or vntlesse it be vntalers for that which shall be retailed or spent in their houses 5. E. 6. c. 11. & 14. Eli. cap. 11. 17. Eliz. cap. 11. 1. lac. 15.

Fish packed.

Bought of Strangers.

**Loss 3 s. 4 pence for each
Barrell.**

**Loss the Herring or the
value.**

**Wormes, Ship, lombs
transported.**

If any person haue packed Fish in barrells, & haue mired the countable fish with the smal fish, 21. E. 4. cap. 1. & 1. H. 7. cap. 23. or haue bought of a stranger boyne, or out of a strangers bottom, any Herring (other the fish) as comes hither by reason of shipwracke) not sufficiently salted, packed, and casked, 3. Eli. c. 30. If any haue brought, or received into

into any Ship or bottome, and Hams, Sheeps, or Lambes, being alive, to be conveyed out of the Kings dominions: And if any person have procured the same, 8. Eliz. cap. 3.

If any person have dyed in this Realme to be sold, any fish taken or brought hither by any Stranger bozne, 13. Eliz. cap. 11.

If any Stranger bozne, have brought into this realme, any cods, or lingb, packed in barreles, or other casks, 13. Eliz. cap. 11.

If any person (within this yeare) have taken upon him to set price, to take Toll, or to demand any tare upon any Sea-fish taken by any Subject of the K. in their owne vessels: 13. Eliz. cap. 11.

If any person or other person have within that time, by colour of any Commission taken any such Herring or Sea-fish (other then the accustomed composition fish to the Island) against the will of the Governor in thereof: And if any person have within that time, caused to be laden and carried in any vessel (whereof any Stranger bozne, is wholly or partly owner or master) any fish, viual, or other thing, from one port or crick of this Realme, to any other of the same: And if any person have within that time brought into this Realme, or any part thereof, other then into the Ile of Man, or into Wales, any wine coming out of the dominions of France, or any Wholse strange bottell, 13. Eliz. cap. 11.

Loose his goods and his left Hhd

Dying of fish brought by Strangers. Loose the fish or the value.

Cods or Lingb to cask. Loose the fish or the value.

Set price or tare upon sea fish.

Loose the value of the fish.

Forfeit the double value. Sea fish and Herring.

Loose the goods so laden or the value.

Loose the goods so laden or the value.

Forfeite all the Wood, but only in such Wessell whereof some
Wine & wood, Subject of the Kings was then owner, or part
owner, 5. El. ca. 5. & 27. El. cap. 11.

If any person authorized to sell wine by re-
taile, have within this yeare sold the same a-
bove the prices thereof limited by the R. pro-
clamation, if there have bene any, 5. Eliz. ca. 5.
& 27. Eliz. cap. 11.

If any Inholder, Taverner, Alehouse-ke-
per, common victualer, common Cooke, or ch-
mon table keeper, hath offered, or put to sale,
any kind of flesh viual, upon any day in the
time of Lent, or upon any Friday, Saturday, or
other day appointed by former law to be fish
day (not being Christmas day) except it be to
such person, as (resorting to such house) had
lawfull licence to eat the same according to
the statute thereof made, 5. Eliz. ca. 5. 27. Eliz.
ca. 11. Sec 1. lac. cap. 29.

Eating flesh.
Loose xx. s. or
have one mo-
neths impris-
onment.

If any person (other then by reason of age,
sickness, childing, or licence) have within this
yeare eaten flesh in Lent, or upon any fish day
observed by the custome of this realme. 2. Ed.
6. cap. 19. & 5. Eliz. cap. 5. 35. Eliz. cap. 7. See
the Stat. 1. lac. ca. 29. that no licence granted
to any sicke or infirme person by force of the
Stat. anno 5. Eliz. cap. 5. shalbe sufficient warrant
for their eating of beefe, veale, porke, mutton, or
bacon, in Lent, or on fish daies: and see the
same statute against Butchers for killing and vi-
tering the same, 1. lac. cap. 29.

If any common Bxetuer, Baker, or Tipler, *Forfeitor* have broken the Assise of bread, beere, or ale: and etc. And if any Steward of Lēt, or office in may, *Fine.* het towne, haue taken any fine for breach of the assise of bread or ale, in such cases, where corporall punishment is appointed, 13.R.2. cap.8.

If any Inne-keeper, Victualler, or Alehouse-keeper, *Tipler.* haue at any time sold lesse then one full Alequart of the best Beere or Ale for a penie, *Forfeitor.* and of the small g. quarts for one penie, 1.Iac. *Disabled to* cap.9. 4.Iac. cap.5. 7.Iac. cap.10. *keepe an Ale-* *house 3.yeres.*

If any Inne-keeper &c. haue suffered any person dwelling in the towne, villagē, or ham- *Tipler.* let, where such Inne, Alehouse, or Tipling house is, to remaine and continue drinking there (other then persons invited by travellers, accompaning them only during their ne- *Loose 10.s.* *Disabled &c.* *3.yeres.* cessarie abode there, laboring and handicrafts men, for one houre at dinner time, and laborers and workmen, which for following their worke lodge or victuall in such houses) other then for urgent occasion allowed by g. Iustices of peace, 1.Iacob. cap.9. 4.Iacob. cap.5. 7.Iacob. cap.10.

If any person haue (within these five mo- *Drunkenes.* neths) remained tipling in any Inne, Victu- *Loose 3.s. 4.d.* ling house or Alehouse being in the same towne, villagē, or hamlet, wherein such person dwelt at the time of such tipling (vnlesse in such cases as are by 1.Iac. cap.9. excepted, which see here

next

Offence ^{1. 5. d.}
^{2. Bound to the}
^{good behavi.}
^{our.}

next before) And if any person haue
 (within these fixe monethes) bene
 drunk, 4. Lac. cap. 5. 7. Lac. c. 10.

Spicer.

If any person haue sold utterred, or deliuered
 any beere or ale to any person, or into the house
 of any person, that hath sold beere or ale as a
 common Tipler hauing licence in force to sel
 beere and ale, 4. Lac. cap. 4.

For euery bar-
 rell 6. s. d.

**Weights and
 Measures.**

If any person haue bought or solde by any
 vnlawful weights or measures: or if any per-
 son haue bought or sold in any city,
 or market with any weight or mea-
 sure that is not lawfully marked or
 signed: 11. H. 7. cap. 4. And haue

^{1. Loose 6. s. d.}
^{2. Loose 13. s. d.}
^{3. Loose 22. s. and stand}
 on Pillorie.

bought coine by heaped measure, in any place
 (except within Shippwrd) or haue vsed double
 measure, the one to buy, the other to sell with,
 15. R. 2. c. 4. 11. H. 7. c. 4. 5. E. 3. de Pistoribus.

**Common
 Weights and
 Measures.**

Fine and a
 merciantent,

If they of the towne where the Kings Stan-
 derd is appointed to remaine, haue not their
 common Weights and Measures signed, or
 haue not thereby signed weights & measures
 sold to all that haue required the same: And if
 the head Officers of Market townes haue not
 twise yearely made view and examination of
 Weights & Measures there, 11. H. 7. cap. 4.

**Wessel for ale
 or beere.**

If any vessel for beere or ale, haue bin sold or
 put to sale, being made of vnseasonable wood,
 or not hauing thereupon the marks of him that
 made it: or if any barrell for beere containe not
 of the Kings Standard 36. gallons, & kilderkin.

Loose 3. s. d.

18. gallons, the firkin 9. gallons, every barrell of Ale 32. gallons, the kilberkin 16. gallons, & every firkin 8. gallons, 23. H. 8. ca. 4.

If any haue made, or brought into this Realme any Tun of wine not containing 252 gallons, or Pipe not containing 126. gallons, or Tertian not containing, 82. gallons, or hogshed not containing 63. gallons, or Butte of Palmie not containing, 126. gallons, or barrell of Herring not containing, 32. gallons of wine measure: Or barrell of Celes not containing 42. gallons, or Butt of Salmon not containing 84. gallons: Or any Bilderkins, tertians, firkins, or rûdelets, but after þe same rate, 2. H. 6. c. 11. 1. R. 3. ca. 13. & 28. H. 8. ca. 14.

If any haue made any vessel of Hoop, þe being empty containeth not 32. gallons for þe barrell, 16. for the halfe barrell, & 8. for the firkin, or weigheth aboue 26. pound, þe barrell, 13. the halfe barrell, or 6. l. & a halfe the firkin, 23. H. 8. c. 4.

If any millers haue taken Toll by heaped Condisy. measure, 31. E. 1. de Pistor. et Bracciat.

If any Artificers, workemen, or labourers, haue conspired or promised together, or made any oathes þe they wil not do their workes, but at a certaine price or rate, or but at certaine times, or but a certaine worke in a day, or that one of them shal not take vpon him to finish that which another hath begun, 2. E. 6. c. 15.

If

Wells for
wines, Honey
Oile, Herring
Celes, &c.

Lose the Wine
Honey, Oile,
and Fish.

Wells of
Hoop.
Lose 3. s. 4. d.
for each one.

- Artificers conspiring.
- 1 Ten li. or haue xx. daies imprisonment, with bread & water.
 - 2 Twentie li. or stand on Pillorie.
 - 3 Fortie li. or lose one eare and bee infamous.

Artificers.

If any person doe vse any Art or manuel occupation, (vled in the first yeare of the late Q. El.) which hath not bene brought vp therin seven yeares (at the least) as an apprentice: or hath set any to worke in it, which is not a workeman, or iourneyman by yeare, or hath serued as an apprentice 5. Eli. c. 4.

Arrowhead Smiths.

Lose the head and be prisoned, and make fine.

Gosh and water hides.

Lose 10. d. for euerie hide.

Lose 3. s. 4. d. for euery hide.

Butcher.

For euerie day 6. s. 8. d.

If any Arrowhead Smith haue not wel beiled, brased, and hardened at the appoint with steel, and marked with his marke, such heads of Arrowes and quarels, as he hath made, 7. H. 4. cap. 7.

If any Butcher haue gashed, slaughtered, or cut the hide of any Ore, Bul, Steere, or Cow, whereby it is impaired: Or haue watered any hide except in June, July, and August, or haue put to sale any putrified or rotten hide.

If any person during the time that he hath vled the occupation of a Butcher, haue also vled the misterie of a Tanner.

Tanners.

Lose the hides & skins tanned.

If any person (during the time that he hath vled the misterie of a Tanner) haue vled also the misterie of a Shomaker, Currier, Butcher, or of any Artificer vling the cutting or working of Leather.

If any person (other then such as had a Tanhouse 19. Dis. Martij 1603. and did then occupie tanning of Leather, or hath bene taught as an Apprentice or hired seruant seven yeres in the misterie of tanning of leather, or hath bene wife to a Tanner, or sonne of a Tanner brought

brought vp in that myſterie foure yerres, or the
 Sonne or Daughter of a Tanner, or ſuch per-
 ſon as hath married the Wiſe, or daughter of
 a Tanner, that leſt to the ſame his Tan-
 houſe and ſtats) haue tanned any Leather, or taken
 any profit by tanning thereof.

If any perſon haue bought, contracted for, or beſpoken any rough hide, or calues ſkinne
 in the haire (except ſalt hides for the neceſſary
 uſe of ſhips) but ſuch perſons onely, as ſhall and
 may by this Act tan the ſame, or will taw the
 ſame.

If any perſon haue bought, ſold, or beſpoken any tanned Leather, not wrought into made
 wares, (other then necks and ſpeds of Sad-
 lers & Girdlers) but ſuch perſons onely as will
 conuert the ſame into made wares.

If any Tanner haue ſuffered any hide to lie
 in the Limes, till the ſame be ouer limed: Or
 haue put any Hides into any Tanne ſats be-
 fore the lime be perfectly wrought out of them:
 Or haue uſed any thing in Tanning, but only
 Albarke, Wakebarks, Tapwort, Pault,
 Peale, Lime, Culuerdung, or Vendung: Or
 haue ſuffered his Leather to be frozen, or to be
 parched with the fire or Sunne: Or haue tan-
 ned any rotten Hides: Or haue not ſuffered
 the Hides for outer ſole Leather, to lie in the
 wyes twelue Moneths, and for the upper
 Leather nine Moneths: Or haue negligently
 wrought the Hides in the wyes, or haue not

G g

renewed

renned their woyses as oft as was requysite: Or haue put to sale any tanned Hide not wought according to this statute.

Forfeit the Hides.

If any Tanner haue raised with any mixtures any Hide to be conuerted to Backes, Bend Leather, Clowting Leather, or any other sole Leather, except the same be fit & sufficient for that vse.

For euery hide or peece of Leather 6 s. 3. and for euery 12. Calnes skins or sheepe skins 3. s. 4. and the hides or skins, or their value.

If any person haue put to sale, exchanged, or otherwise departed with, any Tanned Leather (red and unwought) but in open faice or Market, in the places therfore prepared, wlesse it hath bene first lawfully searched and Sealed in some open faice or market: Or haue put to sale any Leather, befoze it hath bene searched or sealed according to this statute.

Forfeir so much of the Leather as is insufficiently. &c.

If any Tanner haue put to sale any Leather insufficiently, or not thoroughly tanned, or not well & thoroughly dyed, and y^e same so found by the Wriers of Leather, appointed by this act.

Forfeir x. li. & stand on the pillorie three Market daies,

If any persons hath set his Hats in Tannyls, or other places, where the woyses or leather to be tanned in the same may take any vnkind heats, or hath put any Leather into any hoat or warme woyses, or hath tanned with hoat or warme woyses.

Barke.

Forfeir euerie tree, or the double value.

If any person haue felled any Waken trees meet to be barked, where Barke is worth two shillings a load, aboue the charges of barking and pilling, (Timber for necessarie building and reparations of houses, ships, or milles excepted)

cepted) but between the first day of Aprill, and the last of June.

If any Currier haue carried any Leather, **Carrier.** but in his owne house, situate in a Corporat or Market Towne: Or haue curried any Leather not well tanned, or not thoroughly dried after his wet season, or haue vsed in such wet season any deceitfull meanes to corrupt the same: Or haue curried any bitter sole leather, with any other stuffe then hard Tallow, or less of that then the Leather will receiue: Or inner sole leather, or ower leather, but with good stuffe, being fresh and not salt, or haue not liquored them thoroughly: Or haue scalded, or shauen too thin, or gasht in shaning, or otherwise, or not wrought sufficiently, any leather.

Loose a noble,
and the value
of each skin
marred for each
offence, (except
gashing in
shaning) and
for such gash-
ing double so
much as the
Leather is im-
paired.

If any Currier haue (during the time that he hath vsed Currying) vsed the seats of a Tamer, Cordwayner, Shomaker, Butcher, or other Artificer vsing cutting of Leather.

Loose a Noble
for each Hide
or Skin.

If any Currier haue refused to curry with, in eight daies in Summer, and fiftene daies in Winter, in all degrees perfectly, any leather brought by any Cutter of Leather, or his servant, bringing with him good stuffe for the perfect liquoring of the same.

Loose x. s. for
euery hide not
so curried.

If any Shomaker haue made any Botes, Shomaker; Shoes, Buskins, Startups, slippers, or pates, or any part of them of English leather wet curried, (other the Deer, Calue, or Goat skins

dressed like Spanish leather) but of Leather well tanned and curried, or well tanned only, and well sewed with threed wel twisted, war- ed, and rosened, with the stiches hard or at one with hand leathers, without miring Seats and Calves leather in the ouerleathers there- of: We haue put into any Shoes, Boots &c. a- ny leather made of Serpe-skinne, Bull-hide, or Horse-hide, or into the upper leather of any Shoes, Startups, Slippers, or Pantofles, or into the nether part of Boots (the inner part of the shoe onely excepted) any part of the wombe, Neck, Shank, Flanke, Wole, or Cheek of any Hide, or into the vpper sole other then the best of the Bre or Stiers hide, or into the inner sole other then the Wombes, Neck, Poll, or Cheeke, or in the Triswels of the double soled shoes other then the flanks of any the said hides: We haue put to sale in any yere (betwene the last of September & the twentieth of April) any Shoes, Boots, Buskins, Startups, Slippers, or Pantofles, met for any person aboue foure yeres old, wherein hath bin any dry English leather (other then Calue or Goate skins dressed like Spanish leather:) We haue shewed for sale any of his wares vpon the Sunday.

Loose 3. 4. d.
for euery
paire, and the
inst value.

Loose xl. li. s.
every yere.

For euery de-
fault v. li.

If any Lord of Fraire or Market haue not appointed & swozne yereley two, thre or more honest and skilfull men to be serchers and se- lers of leather there, and sixe honest and expert

men to try the same Leather: and if such Tri- Five pound
ers haue don their dueties therein without de- for every Tri-
lay: And if any Sercher or Dealer so appoin- ers default.
ted, haue refused with speed to seale good lea-
ther, or haue allowed insufficient leather: or
haue receiued any bribe, or exacted any vndue Forfeir xli.
fee for execution of his office; or if any person For every of-
duely elected Sercher or Dealer refuse to exe- fence xx li.
cute the same Office. Loose x li.

If any person haue denied, withstood, or not Loose v li.
suffered any such Sercher to enter into any
house or other place to serch tanned Leather,
and wrought ware, or to seize and carrie away
that which was insufficient: Or haue put a- Loose the va-
way any Tanned Leather (red & unwrought) lue of the lea-
without registering the same, and the price ther.
thereof: Or haue bought any Tanned Lea-
ther before it was searched and sealed, or haue Forfeir the
carried it out of any Faire or Market, before leather or the
it was registered. value.

If any person (to whom any vnlawfull lea- The buyer
ther or stuffe hath bene giuen by this Act) shall forfeit
haue giuen, or sold the same, to any person & 3 s. 4 d.
hath sold the same againe, i. l. ac. c. 12.

If any Goldsmith, or worker of silver, haue Goldsmiths,
wrought any silver, that is not so fine in allay and gilding.
as the Sterling, or haue not set his marke vpon Forfeir the
his worke before he set it to sale, i. H. 6. cap. 14. double value.
And if any haue gilded any Sheaths, or any Forfeir ten
mettal but silver, sauing & spurs of Knights, times the value
and the apparrell of a Baron, or such as are of the thing
gilt, & be pri-
soned one yere

abone that estate, 8.H.5. cap. 3.

**Peinturer, or
Washer.**

Loose x. li. for
each default.

Loose the
wares.

If any Peinturer, or Washer, haue sold, or exchanged any Wasse, or Peintur, but onely in open Faire, or Market, or in his house, unless he were thereto required by the buyer: He hath wrought any hollow wares of lay mettall, which is not according to the assise of the lay mettall wrought in London: He hath not set his seale or marke vpon the said ware, 19.H.7. cap. 6. and 4.H.8. cap. 7.

Tilemakers.
Loose the double
value to
the buyer.

If any Tilemaker haue not digged and call vp his earth for Tile, till after the first of November, or haue not stirred and turned it till after the first of February following: Or if he haue wrought it before the first of March following: Or if he haue not wrought and tried it from stones, beines, and chalke: Or if he

haue made, or any person haue put to sale, any plaine Tile, vnder 1. inches and a halfe in length, sixe inches and a quarter in breadth, and halfe an inch and a quarter in thicknesse: Or any rose Tile vnder 19. inches in length, and halfe an inch and halfe

a quarter in thicknesse, with convenient deepnesse: Or any gutter Tile vnder 1. inches and a halfe in length, with convenient thicknesse, bread, and deapth. And if any Searchers appointed for the oversight of the true making of Tile, haue not done their effectual indeuor and diligence in this behalfe, 17.E.4. cap. 1.

Loose
for euery
ty

{ 100. of plaine
Tile, v. s.
100 of roose
Tile, a Noble.
100 of corner
Tile, ij. s.

Loose x. s. for
each default.

If any person haue sold, or set forth candles, waxe, tapers, or other workes of tallow to sale, at higher price then after the rate of foure pence for the pound, ouer the common price of plaine ware betwene Merchant and Merchant, 11. Hen. 6 cap. 12. Forfeit the workes or the value: and to make Fine.

If any Clothmaker haue not set his Seale of Lead vnto his Cloth, thereby declaring the iust length thereof, to be tryed by the water, 3. E. 6. c. 2. Clothmaking and Dying. Fine.

If any person haue stretched any Cloath aboue one yard and a halfe in length, or one quarter of a yard in breadth, or haue put to sale any Cloath that hath shrunke more in the wetting then is aforesaid: Or haue stretched any narrow Streite or Kersey aboue one yard in length, and a quarter of a yard in breadth, or haue put any such to sale that haue shrunke more in the wetting, 3. Edw. 6. cap. 2. Loose 40.s. for each default.

If any Dyer of Wollen Cloath, haue dyed any brown Blewes, Belukes, Tawnyes or Gioletts, that were not perfectly boyled, grained, or maddered vpon the Wood, & shot with good Coyke, or Dyhall insufficiently, 3. E. 6 cap. 2. Loose 20.s. for each offence.

If any person haue dyed any wooll for Cloth called Kusslets, Parbles, Gzaies, Bayes, or such like, or for Hats or Caps, vntill it were perfectly woaded, boyled, and maddered: Or haue dyed with Wazell, to the intent to make Loose 40.s. for each Cloth, or Wooll, sufficient for a cloth. Loose 20.s. for each offence.

Lose forrie
shillings for
each offence,
Lose them,
and xx.s.

Lose a Noble
for each yard.

Lose the cloth,
or the value.

To Lose as the
offenders the-
selves should
lose.

Lose xx.li.

Forfeit xx. shillings for
each fault of breadth,
or length: and the like
for each want of weight
aboue foure pound.

a false colour, in any such Cloth or wool: Or
haue put any store, chalker, starch, or other de-
ceivable thing vpon any Cloth (except certain
Devonshire & Cornwall straights, 3.E.6.c.2.)
Or haue occupied any Pion cards, or picards
in rowing of any wollen Cloth: Or haue
sold any Cloth of any lesse measure then after
the true content thereof by the yard and ynch:
Or haue put to sale in this Realme any Cloth
(being pressed) to be occupied in England,
Wales, or Ireland, 3.E.6.c.2.

If any Ouersers of Cloth, appointed by
Iustices of peace for this yere, haue refused to
be ouersers, or haue not within their charge,
made due search thereof once euerie Quarter:
And if any person haue interrupted them to
make such serch, 3.Ed.6.cap.2.

If any Kentish broad Cloth (except court
Cloth onely, not exceeding vs.l.pice) hath bin
made, that contained not in length
betwene xxvij. and xxx. yardes, be-
ing wet: and in breadth seauen quar-
ters within the lisses: and in weight
76. pounds, being well scoured, thic-
ked, milled, and fully dyed, 5.Ed.6.
cap.6. and 4.& 5.P.& M. cap.5. See this al-
tered .Iac.c.2.

And so changing it after their rates for other
Countries, as by those Statutes appeareth.

For regrating of Wools by *Hallifax* men, See
2.& 3.P.& M.c.13.

If any person haue vsed, or caused to be vsed, any racking, beating, or casting of any deceitfull liquo^r, or other meane, with any kind of Linnen Cloth, whereby the same became deceitfull, or the worse for the good vse thereof, 1. Elizab. cap. 12.

Forfeite the Cloth, haue one Moneths imprisonment, and pay Fine.

If any owner of any Site or Precinct, and Demeasnes of any late dissolved Religious house (that was in yearely value vnder 200. pounds) doe not keepe an honest and continuall household thereupon, 27. H. 8. c. 22. & 5. El. cap. 7.

Forfeite xx. nobles for each moneth.

Note that the offences against the Statute of Husbandrie and Tillage, 39. Eliz. cap. 2, which extendeth not to Kent, Essex, Suffex, and many other Shires, nor to the greatest part of Wales, are inquirable and determinable at the Quarter Sessions: but I leave them to the Iustices of those Shires in which they haue force.

If any person haue at once kept aboue the number of 2000. Sheepe of all sorts, against the purport of the Statute, 25. H. 8. c. 13.

2000. Sheepe Loose 3. s. 4. d. for euery

If any Dweller, officer, or ruler of any Fair or Market, haue not appointed one certaine open place there, for the sale of Horses, Geldings, Mares, and Coltes, and one sufficient person to take Toll, and keepe the said place: And if any such Toll-gatherer, or his deputy, haue taken any more then one penie toll for one contract, or for entring the names of the parties

sheepe more. Faire & Market for horses.

Loose 40. s. for each default, and answere the party grieved.

parties, and that in the same place onely, and betwene tenne of the clocke in the morning, and Sunne setting, 2. and 3. Phil. and Mar. cap. 4.

Entrie in the
toll booke.

If any person haue in any Faire or Marke, sold, giuen, or put away, any Horse, Mare, Gelding, Colt, or Filly: vnlesse the Toltaker, Bookekeeper, Wayliffe, or chiefe Officer thereof, will take vpon him perfect knowledge of the same person, his name, surname, and place of dwelling, or residence, and shall enter the same into a booke kept for horses sold: or vnlesse the said person doe bring to such Toltaker, bookekeeper, &c. one sufficient and credible person that can and will testifie, that he knoweth the seller, giuer, or putter away, his name, surname, mysterie, and dwelling place: and there enter into such booke, as well the same, as the name, surname, mysterie, and place of dwelling, or residence of such testifier, together with the true price that shall be taken for any such Horse, Mare, Gelding, Colt, or Filly so sold: None shall so testifie vnlesse hee doe indeede truly know the same, vpon paine to forfeyt fine pound for euery default in any the premises. And the like paine vpon the Toltaker, or other Officer aforesaid, that shall refuse to giue to the buyer, or taker of such Horse, &c. a true note in wyting of that his entrie, the partie paying the pance for the same, 31. Elizabeth. cap. 13.

Fine pounds.

If any Inn-holder (dwelling in any Citie, Towne-holder, Towne corporate, or Market towne, wherein is any common Baker that hath been Apprentice there seven yeeres) haue within his owne house made any horse bread: or (dwelling in any other thowtowne) haue made it insufficiently, and not of due assise, 13.R.2.ca.8.& 32. H.8.cap.41.

If any Inholder haue taken any thing for hay and oats litter: or haue taken excessively for hay, or haue taken above one half penny in a Bushel of oats, ouer the common price in the Market, 13.R.2.cap.8.& 4. H.4.cap.25.

If any person haue bene retained into seruice to worke for any lesse time then a whole yeere, in any the Arts of a clothier, wollen weauer, tucker, fuller, clothworker, threeman, dier, hosier, tailor, shomaker, tanner, pewterer, baker, brewer, glouer, cutler, smith, ferro, curtier, sadler, spurrier, turner, caper, hatmaker, feltmaker, bowyer, fletcher, arrowhead-maker, butcher, cooke, or miller. And if any person being unmarried (or vnder thirtie yeeres of age, and married) and being compellable to serue in any of those Arts, haue refused to serue.

Loose the quadruple value of that which he hath taken more.

Servants not retainable for less then one yeere.

The retainer is void.

Refusing to serue.

Prisoned till he will serue.

If any person being betwixt the age of twelue yeeres and threescore, and being compellable to serue in Husbandry, haue refused to serue in Husbandry, after request therof made by any person keeping Husbandry: And if any person

Prisoned till he will serue.

Greater wages. person haue giuen any wages, contrary to the
Forfeit v.l. Rates of wages of Seruants and Labourers
 appointed and proclaimed.

Testimoniall. If any person retained in Husbandrie, or
 any the said Arts, haue after his retainer expe-
 red, departed out of one limit, tolen
 Prisoned for one and twent- or parish, into an other, without
 tie daies, and whipped a Testimoniall: And if any person
 then if hee bring not a haue accepted into his service, any
 Testimoniall, so departing, without shewing such Testimo-
Loose v.li. for each offence. niall,

Put away, or depart away. If any person haue put away his Seruant
 befoze the end of his term, without reasonable
Forfait xl.s. & allowed cause befoze a Iustice of the peace,
 or at the end of his terme, without a quarters
 warning befoze giuen: And if any seruāt haue
 departed without such cause befoze the end of
 the terme, or at the end thereof, without such

Prisoned til he will continue. warning giuen befoze two lawfull witnesses.
Undertake worke, and not finish it. If any Artificer or Labourer, hired
 by the day, or weeke, haue not conti-
Forfait one penie, for each nued at his worke so many houres
 houres absence. in the day as he ought: Or taking
 any worke by the great, haue un-
Forfait v. li. and haue one lawfully departed befoze the finish-
 Month imprisonment, ing thereof.

Assault Master or dame.

One yeares imprisonment, If any Seruant, workman, or La-
 and other open corpo- bourer haue wilfully & maliciously
 rall punishment, not ex- made any assault: or assay upon his
 tending to life or lim. Master, or Dame, or other person
 hauing the charge of such workers,
 or worke. If

If any Constable, or head officer, haue not upon complaint, put into the books two dates & one night, euery Artificer, or person mete to laboꝝ, that hath refused to laboꝝ in Way time, or Haruest, foꝝ y^e getting or carrying of coꝝne, hay, or grain, being therto appointed by a Justice of peace, or such Constable, or head officer.

If any person haue taken any Appꝛentice against the order of the Law: And if any person haue exercised any Art, not being brought by therein as an Appꝛentice seauen yeres, 5. Eliz. cap. 4. and 5.

If the Churchwardens of any Parish haue not euery Sunday leuied the money foꝝ reliefe of the Prisoners in the Gaole, & once in euery quarter paid it to the Constable of the Hundred: Or if the Constable haue not at euery Quarter Sessions paid ouer the same to the Collector thereto appointed: Or if such Collector haue not wekely distributed the same foꝝ reliefe of the said Prisoners, 14. Eliz. cap. 5. 1. Jac. cap. 25.

If any person hath (since the end of the last Session of Parliament) made, builded, or erected, or caused to be made, &c. any maner of Cottage foꝝ dwelling: or conuerted, or ordained any buylding, or housing, to be vsed as a Cottage foꝝ dwelling, vnlesse y^e same person haue laid thereunto 4. Acres (at the least) of ground (to be accounted by the Ordinance de Terris mensurandis) being his or her owne freehold and

and inheritance, lying nere to the said Cottage to be continually manured therewithall so long as that cottage shall be inhabited.

If any person haue willingly maintained or upholden such cottages, not hauing so many acres so lying and manured.

If there be any Inmates, or mo households then one, dwelling in any one Cottage, by the placing, or suffering of any owner or occupier of such Cottage.

Cottages.

But this statute extendeth not to any Cottage in any citie, corporate (or market) towne, or ancient Borough: Nor to the dwelling of any workers in Spinerall workes, coale mines, Quarries of Stone, or slate, or about the making of bricke, tile, lime, or coale so that they be not distant aboue one mile from the workes, nor be vled only for the habitation of such workers: Nor to cottages within a mile of the sea, or upon the side of any Navigable river within the Admiralls iurisdiction, so as none dwell therein but Sailors, or men of Mannel occupation for the making, furnishing, or victualling of ships, or vessels vled to serue on the Sea: Nor to any Cottage in any forrest, chase, warren, or parkes inhabited only by the that keepe the Diers, or game there: Nor to any cottage hereafter to be made, wherein onely a common hearthman, or common shepheard of any towne, or any poore, lame, sick, aged, or impotent person shal dwell: Nor which for any iust respect (upon complaint to

to the Iustices of Assise at the Assises, or to the Iustices of peace at the N. Sessions) shall by their order (entred in open Assises, or N. Sessions) be decreed to continue for dwelling, for so long time onely as by such decree shalbe limited, 31. Eli. Reg. c. 7. And extendeth to any Innmates to be placed by the order of the Iustices in their quarter Session, with the leave of the Lord of any waste, or common, at the charge of the Parish, Hundred, or Countie 43. Eliz. cap. 2.

If any bridges in the Highwaies (being out of repair) of the Cinque Ports, and members thereof be broken or decayed, to the annoyances of passengers, and if yea, then what Hundred, Citie, towne, parish, or person certaine, or bodie politique, ought of right to repaire or amend the same, 22. H. 8. c. 5.

If the Constables and Churchwardens of any parish, haue not in Easter week called their parishioners together, & appointed ouer-
 seers of the works for amendment of the highwaies leading to any Market, or haue not appointed the six daies for that worke: & if any such ouersers, haue refused that charge. And if any person (hauing a plow land in tillage or pasture, or keeping a draught or plow) haue not found one Ox, or Cart, furnished to worke eight houres, enery of the said daies: every draught. Forfeite xx. s.
 And if any other person (being assessed in Subsidie to v. l. in goods, or xl. s. in lands) haue not Forfeite x. s. for each day.
 like,

Loose 10.s. for
each default.

likewise found two able men: or if any other
householder or Cotager, haue not by himselfe or
any other, so wrought euery of the same daies.

If the hedges, ditches, trees, and bushes, in
and on each side of any such highway bee not
kept low, scowred, and cut downe by the ow-
ners of the grounds adioining: If any such o-
uerseer, haue not within one month after any
of the said offences done, presented the same to
the next Justice of the peace: and if any person
occupping land adioining to any such high-
way, haue cast the scouring of any ditch there-
of into the high way.

Loose 12.d. for
euery rod.

- If any Bailifes, Constables, Surueiors, or

Bailifes and Constables to
lose xl.s.

Churchwardens, haue not leuied the
forfeitures for the offences aforesaid,
and imployed them vpon their said
highwaies and accounted thereof, 1.
& 3.P.& M.c.8. 5 El.ca.13. 18.Eli.
c.9.27.El.c.11.

Surueiors & Churchwar-
dens to be fined.

Highwaies in
the countie of
Kent, Suffex
and Surrey.

If any Owner, Occupier, or Person of any
maner of yron worke, haue not (for euery three
loads of Cole or myne, and also for euery tun
of yron y^e he hath caused to bee carried by any
waine or cart, betwixen the 12. of October & the
first of May, by the space of one mile through
any High way within the Countie of this
Countie of Kent) paid 3.s.4. d. to the Justice
of peace dwelling nere the place where the
High waies were most annoied: and haue
not likewise (for euery thirtie loads of coale

in mine, and also for euery tegne Connes of
Iron so caried there, betwene the first day of
May and the 15. of October) caried and laid one
load of linder, granell, stone, or chalker, in such
part of the said highwaies, as was by such Ju-
stice, or (in his default) by the Shireuotes of
the highwaies there, appointed thereto, or
else 10. s. in mony for euery such load so bus and
not caried to the hands of the said Justice, or
Shireuotes, within right daies after demaund
thereof at his said Iron worke. And if any of
the last said Shireuotes haue not so appointed
the place, or haue not demanded the said mony,
or haue not at the next quarter Sessions of the
Peace presented the default thereof, 39. Eliz.
cap. 19.

Forfeite 10. s. for
euery load, &
for euery 3. s.

Forfeite 40. s.
for euery
default.

If any person haue (for lucre) mainteyned
or kept any common house, alley, or place of
bowling, coryting, closh, cailles, tennis, dicing,
tables, carding, shonegrot, or any other game
prohibited by any former statute (as football
and casting of the stone) or any other unlawful
new game now inuented: if any Artificer of a-
ny occupation, or any Husbandman, Appren-
tice, Labourer, Seruant at Husbandrie, Jour-
neyman, or any Seruant of Artificer, or any
Mariner, Fisherman, Waterman, or serving-
man (other then of a Nobleman, or of him that
may dispense C. li. by. years, playing within the
precinct of his Masters house) haue plaid out
of the Christmas at any of the said unlawfull

Unlawfull
games.

Lose 40. s. for
euery day.

Lose 6. s. 3. d.
for euery time

games, or in the Christmas out of the house, or presence of their master, 33. H. 8. c. 9. & vide 12. R. 2. c. 7. & 10.

**Crossebowes
and Gunnes.**

Loss 10. li. for
euery offence.

Loss 10. li. for
each offence.

If any person haue shot in, vlsed, or kept any hand gunne, but such as in stocke and gun one yard long: or any hagbut or demy hake, not being thre quarters of a yard long, 33. H. 8. c. 6.

If any person (not hauing C. li. reuenue by the yere) haue caried in his iourney any crossebow bent, or Gun charged, vnslesse it be to the musters: if any person haue shot at large (other then at a but or banke of earth in place conuenient) at any thing with any gun in any Citie, Borough, Market towne, or within a quarter of a mile of any of them, or haue commanded his seruant to shoot in crossebow, or gun, at any thing other then a but or banke of earth: or if any person (not hauing C. li. by yere, or not dwelling within five miles of the Sea coast, or not dwelling in a house two furlongs distant from any Citie, Borough, or Towne) do kepe or haue in his house any Crossebow, 33. H. 8. cap. 6.

But such as are charged to find a gun by the statute (4. & 5. P. & M. cc. 2.) and their seruants may shoot at a but or banke, and at their owne proper games, so that they carie not the same in a high way, except it be going to or from the musters, or to or from the defence or seruice of the Realme. But see this statute repealed, 1. Jac. cap. 25.

If any person (having C. li. by yere, and ha-
ving seised any crossbow or gun by vertue of
this Act) haue not broken the same in peces
within xx. daies next after such seisure, Ibid.

Loose 10 s. d.

If any Merchant Stranger, being of any
Countrey from whence bowstanes haue been
brought to be sent into this Land, haue not (for
euery tun weight of burden that his vessell
conteyneth) brought hither foure bowstanes.
1. R. 4. c. 1. 33. H. 8. c. 10. & 37. H. 8. c. 7. & 13.
E. 1. 4. and for euery But of Palmesstenne
bowstanes, 1. R. 3. c. 11.

Forfeited

Forfeited 6 s. 8. d.
for each Bow-
stasse.

Forfeited 1 s. 4. d.
for each But.

If any man being the kings labied, and not
having reasonable cause or impediment, any
being within the age of 12. yeres (except Spi-
rituall men, Iustices of the one bench, or other
Iustices of Assises, and Barons of the Esche-
quer) haue not a long bow and arrowes ready
in his house, or haue not vled shooting therein,
or haue not for euery man child in his house
(between 12. yeres, and 24. of age) a bow and
two shafts, and for euery such being aboue 24.
yeres, a bow and foure shafts, or haue not
brought them by in shooting: If any man be-
tween the age of 24. yeres, haue shot at standing
picks: or (being aboue that age) haue shot at
any marke vnder eleuenscore yards with any
picks shaft, or flight.

Forfeited

Loose 6 s. 8. d.
for each
moneth.

Loose 6 s. 8. d.
for euery shot.

If the Inhabitants of any towne haue not
made and continued their Buts as they ought

Butte.

Loose 10 s. d. for
euery three
monethes.

Bolwer.

Loose 7. s. 4. d.
for each Bowe
that shal want.
Lose his Bowe
and arrowes.
Lose them and
have prison-
ment till he
make fine.

**Wife for
Apparel.**

Forfeir 10. li.
for every three
months want.

Musters.

Have 10. daies
prisonment, or
pay 40. s. fine.

Captaines.

If any Bolwer have not for enerie Bolwe
that he made of Clee, made also some other
Bolwes of apt wood to shote in : D^y have not
sold his Bolwers for all ages, at their due pri-
ces : If any stranger borne, not being a deni-
zen, have used to shote in a longe Bowe, with-
out the Kings licence : D^y have comeyed out
of his spaieties Dominions, any longe Bowe
or shafts, without such licence, 13. H. 8. c. 9.

If any Temporal person of full age (who's
wife not being divorced, nor willingly absten-
ting her selfe from him) doth weare any gowne
or petticoate of silke, or any velvet in her kirtle,
or in any lining or part of her gowne (other
then in cusses or purses) or any French hood, or
Bonet of velvet, with any habiliment, pash,
or edge of gold, pearls, or stone, or any chain
of gold about her necke, or upon any her ap-
parell, have not sonnd and kept a light houle
furnished, except he hath been otherwise char-
ged by the statute to find horse or gelding, 33.
H. 8. c. 5.

If any person being generally or specially
commanded to muster before any (having au-
thoritie for the same) have without true and
reasonable cause absented himselfe, or have not
brought with him in a readinesse, his best fir-
niture of array, and armoz of his owne person.

4. & 5. P. & M. c. 3.

If any person (authorized to muster, or to
levie men for the Kings service in warre) have
taken

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The fourth Booke

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taken any regard for the discharge of sparinge
of any person from that service: or if any per
son having charge of men for warfare, haue
not paid to his souldiers their whole wages,
content, and coat money, or haue for any gains
licensed any of them
to depart out of the
service, 1. Ed. 6. cap. 2
ibidem.

Loose tenne times so much,
and to the souldier treble so
much as is not payd.

Lose ten times
so much, or
10 li.

If any souldier serving the King in his
warres, haue given away, wilfully purloyned,
or put away any Horse, gelding, mare, or har
ness, wherewith he was set forth, 2. E. 6. c. 2.

souldiers.
Prisonment
till he make
satisfaction.

If any person haue put to feed in any
forest, Chase, Park, Marsh, Heath, Common,
or wast ground, within this shire, where any
Hares are used to be kept, any stoned Horse,
being above two yeres old, and not being
handful high, betwene the lowest part of the
hose, and the top of the wither: If any such fo
rest or grounds haue not bene petyely dynen
within fiftene daies after Michaelmas by the
winners or officers thereto appointed, 32. H.
8. c. 13.

Horses and
mares for
bynd.

Forfeit the
horse.

Lose 40. s. for
cuerie time.

Note the fenny places that be excepted by
the Statute 8. El. c. 8.

If watches haue not bin made upon the sea
coasts in such places, and with such number of
people, and in such maner as it was wont to be
5. H. 4. c. 3.

Seawatch
Fine.

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The

Parliament.

The Statute of leuying the wages of the Knights of the Parliament (made 23. H. 6. c. 11.) hath no common vse, and is therefore printed.

Note also, that these Statutes following are to be openly published at any Sessions of the Peace, viz.

Purveyors.

The Statute (36. E. 3. c. 2. 3. & 4.) shall be proclaymed by the Iustices of Peace euerie yeere, and thereof to enlorne the people, 23. H. 6. cap. 2.

Vidualers.

All former Statutes for Viiduals being in force, shall be proclaymed two times yeerely in the Sessions of Iustices of the Peace, 23. H. 6. cap. 13.

Archerie.

The Act for Archerie, 33. H. 8. cap. 9. must be proclaymed at the seuerall Sessions of the peace.

Of the Endictments, and Presentments,
given by the Jurors: and of the Matter,
and forme, and receiuing, and
reueiling of them.

CAP. V.

The preparation to this Enquirie,
thus made, let vs goe nearer, and
looke also into the performante of
the same. The vnderstanding of
knowledge, which the Iustices of the peace do
take by the trauell of these Enquirors, is by
the meane of their report put in writing, and
commonly called an Endictment, or Present-
ment: betwixen the which two wordes (howsoe-
uer they be confounded, or not rightly distin-
guished, in common speech) we thinketh that
there doth easily appeare a true and certaine
difference.

For I take a Presentment to be, a meere Presentment,
denunciation of the Jurors themselves, or of
some other officer (as you shall hereafter heare)
without any other information: And an Endic-
ment to be, the Verdict of the Jurors, grounded
vpon the accusation of a third person: So that
a Presentment, is but a declaration of the Ju-
rors (or Officers) without any Bill offered be-
fore: and an Endictment is their finding of a
Bill of accusation to be true.

Distinction

The one seemeth to come of the *Statute* *1. Edm. 1.* I accuse : the other of the French, presenter, to offer vnto a man, or to set before him.

Some extend the word Endictment to felonies and other capitall crimes : and presentment to Nuisances and such inferior faults only. But taking them at aduenture (as others do) let vs consult with our bookes, that wee may learne by them what points be requisit to the making of a good Presentment or Endictment.

Endictment.

An Endictment therefore ought to bee, the verdict of Iurors that be charged to enquire of that offence which is presented by them. For if A. be endicted of stealing the goods of B. and pleadeth thereto not guiltie, and the Iurie findeth that C. stole the goods, and that A. took them from him, but not feloniously : this verdict shall not stand for an endictment against C. because that Iury had no charge to enquire generally who did the felonie, but to trie specially whether A. were thereof guiltie or no. *E. 4. 3.*

But if A. be arraigned vpon an endictment of murder (taken before the Coroner) and is found not guiltie: now, the Iury ought to find who is guiltie thereof: and if they say that C. killed the man, that verdict shall serue for a good Endictment against C. because the Iury had taken so much into charge, *ibidem.*

This

This also is generally true, that all Billes, Informations, and Endicements, grounded upon penall statutes (wherein the Prince only is to reape the forfeiture) ought to be commenced within two yeres next after the offence committed: and if the suit be given to any other person, for himselfe and the Prince, that ought to commence (for the Prince) within two yeres, and (for euery common person) within one yere next after the offence done: And otherwise it is merely void, vnlesse shorter time be limited by that speciall statute upon which the Information, Endicement (or Presentment) is made and framed as it is by the new statute of decaying houses of Pusbardie, 13. Elc. 5. & 39. Elc. 1.

Furthermore all Endicements (forasmuch as they be in the nature of a declaration) ought to containe certaintie: and therefore (as saith 99. Marr.) five principall things be most commonly requisite in presentments before the Iudices of Peace, viz.

- 1 The name, surname, addition of the partie indicted,
- 2 The yere, the day, and place in which the offence was done.
- 3 The name of the person to whom the offence was done.
- 4 The name and value of the thing, in which the offence was committed.

5 The

5 The maner of the fact, and the nature of the offence: as the maner of the treason, murder, felonie, or trespassse.

The name
and surname.

The name and surname of the partie endicted must be certainly expessed: and if the endictment be of an accessarie felonie, the name of the principall must be set downe also. For if the endictment be *quod A mandauit cuidam ignoto occidere B. id quod fecit*, this is vitious: but in treason, trespass, or maihem, where all be principals, it may be *quod procurauit personas ignotas* to do the treason, trespass, or maihem, *Marr.*

Addition of
estate, degree,
&c.

Besides the name and surname of the party endicted, there ought also (by the Statute 1. H. 5. c. 5.) in euery presentment wherein process of Writurie lyeth, to be added his estate, degree, or mysterie, and the countie, towne, hamlet, or place, where he is, or was conuersant. And euens oought it to haue been at the common Law also, as touching names of dignities made by creation, as Duke, Marquis, Earle, Viscount, Archbishop, Bishop, Knight, or Serfant of the Law, because euery of these Titles were accounted partell of the name: but it was not so, for the names of Baron, Banneret, and Esquire (which are but names of dignitie without creation) nor for Chauncel-lor, Treasurer, Chamberlaine, Sheriffe, Coroner, Cheate, Bayliffe, Deane, Archdeacon, Deacon, Prebendarie, or

Bar

Person, (which are names of dignity by reason of office only) unless the Presentment do charge them in respect of their Offices: for then the name of Office also, as Baylife or Churchwarden, ought to be used in the Enditment, Parrow.

But now, Baron, Knight, Esquier, Gentleman, Alderman, Widow, Singlewoman, Dea, Archdeacon, Parson, Doctor, Clerk, Parish-Clerk, are good Additions of estate or degree, (as I take it) within the meaning of this Statute of Additions: But Farmer, Servant, Butler, or Chamberlaine are not, because they be common to Gentlemen & Peomen, and therefore uncertain. So Chapthurch, Marchant, Grocer, Mercer, Taylor, Broker, Husbandman, Hoffer, Laborer, Lighterman, Maltster, man, Spinner, &c. be good Additions of mystery. But Citizen is not, because it is no mystery, arte, or degree: Neither is Executioner, Maintainer, Tagabond, Heretike, Dicer, Carder, or such like, any good addition, because they are every one evill, and against the law.

Degré, or
mysterie.

And this part of the Addition of estate, degree, or mystery, must alwaies be knit to the proper person: For Sybilla Batt. *super de T in remissatu* Eb. *exor* Iohannis Batt. *super Spindler*, was rejected, because Spindler was more properly to be referred to Iohn (which is the last Antecedent) than to Sybilla. *Collect. Dyer. 47.*

Also by the said Statute (as I said) & Addition

place.

ought to comp: end the Countie, and the
Towne as Hamlet as place knowne (out of
my Towne as Hamlet) whereof the partie is
as was: so that if there be divers Hamlets in
one Towne, he may bee named either of the
Towne as Hamlet: But if he be named of a
place knowne, and the place be within a towne,
then he must be named of the towne, 35. H. 6.
20. And if both the Towne and the Parish be
beare one name, he may be named of the one,
or of the other of them: But if their be two
Townes in one parish, then he ought to be na-
med of the towne, and not of the parish, 5. E. 4.
129. 22. E. 4. 3. & 22. H. 6. 41.

An Enbitement against A. the Parson of
Dale, is not good, without naming the place of
his abode: because he may lie at another place
then where his benefice lieth; 25. Eliz. Cur.
Rep. Crompton.

Alias dictos,

As for the *Alias dictos* (which is often put in
the Addition) the use thereof is chiefly in Writs
grounded upon especialties, and to make the
Writs and writing to agree. For (as touching
Enbitements) if the party be not well named,
both for his name of baptisme, surname, mys-
tery, as degree, & place, at the first, then cannot
the *Alias dictos* make that good which was
will be so.

And it appeareth (1. E. 4. 2 & 2. Edw. 4. 16.
that the Addition of the degree or mystery must
always be such as the party hath at the very
time:

time: But the Addition of the day may be of
such, where he was at any time before, so that
then the word *supra* be used with it.

Furthermore, the endowment must contain
the day, yere, and place, in which the offence
was committed, 3. E. 4. 3. 1. H. 7. 7. & 15. E. 3.
41. And therefore if the Endowment suppose it
the 1. day of March, without any more, that is
not good: But if it be the 1. day of March last
past, without shewing in what yere, that is
good enough, for the certaintie may be found
out by the stile of the Sessions. So if it be
the 1. day from Easter, An. 4. Jac. that is good:
Likewise if it be in the Vras of the holy Tri-
nity: and it shall be there understood, to be the
verie day of the Vras (*viz.*) the big. day after
the feast, and not *quarto die* after the Vras:
But if it be *In festo sancti Petri*, it is not good, be-
cause there be diuers feasts of St. Peter, and
none without addition, saith 3. H. 7. Fitz. En-
dowments 22.

The yere,
day, and place.

If the Endowment be, that A. struck B. *xxix.*
die Maij, anno Regis nunc iiiij. whereof B. languis-
hed untill the 11. day of the same moneth, *quo*
quidem xxix. die he dyed of the same stroke: this
is faultie, because it ought to be, whereof he
dyed the said *xx. day*, &c.

If it be *xxix. die Februarij*, it is good enough
in the Bissexile (or Leape yere) which hap-
peth once in enerie foure yeres, and which as-
supbeth 22. daies to that moneth. But if it
should

should be of a day and yere which is not then come, there is no reason to thinke it good.

If it be An. dom. 1599. the yere shall be accounted after the erroneous computation of the Church of England, and not *Stile nouo*, as it is now at Rome, and in other Countries abroad, which also truly is not yet rectified.

If the offence be done in the night before midnight, the Endicement shall suppose it to be done in the day before: and if it happen after midnight, then it must say, it must be done that day after. If it be *In festo* of any saint, it shall be construed to be in the verie day of the feast, & not in the Eue. But if the Presentment be in the Negative, or in the Affirmative) rising vpon a Negative) as that A. hath not scotwized such a Dewey, or that by the not scotwizing thereof such meadowes be drowned: in these cases there needeth no yere, nor day, because it affirmeth a present euill, Marr.

But as a man may be so negligent in omitting, or in not hitting the time: so also may he be ouer curious in doubling it without cause: for if he frame the Endicement; that A. stole certain goods such a day, and such another day, that is faultie, and vncertain, because one felonie cannot be twice committed, 2. H. 7. 7.

And not only this certainty of the time, but that of the place also must be conteyned in the Endicement: For it was aduinged (25. E. 3. 43) that

Place.

that a man should not be put to answer in an
Endiement of killing the Kings parte, because
there was no place named, in which the offence
was done. So an Endiement supposing a fe-
lonie to be done in such a place of such a county
where in truth there is no such place in that
county, is merely void by the statutes 9.H.4.
c.1 & 18.H.6.c.12.

If a man being stricken in Middlesex, had
died thereof in Essex, the Wokes, 3.H.7.12.
4.H.7.18.6.H.7.10.7.H.7.8.10.H.7.18.& 11.
H.4.&c. did not agree, in which of these coun-
ties he should be indicted. But the statute (1 &
3.E.6.c.24. taketh order, that if the stroke or
poysoning, happened to be in one countie, and
the death in an other countie, the Endiement
in the countie where the death is, shall be good:
and likewise, that if a Murder, or Felonie, be
done in one countie, and a man becometh ac-
cessarie thereto in an other countie, the endie-
ment against the accessarie shall be good in that
countie wherein he becometh accessarie.

Where (by the way) you may see in plaine
words of this statut, that Iustices of the peace
may take endiements of murder, as of mur-
der, though W. Fitzh. (fol. 17.) denie it, saying
that they cannot enquire of murder, saving
only as of felonie, or manslaughter.

And you shall read of an endiement of mur-
der (before them) received, 3.H.7.5. agreeable
where

— *Esse* was the opinion of Hales, and Pe-
man Justices as I have seen in a Report of
Dalison Justice. And of the same minde all
were the Justices of the Kings Bench, 5. E. 6.
Collections Dyer fol. 69.

If a man be robbed by the highway in *Wilt-*
shire, and apprehend the thief by hue and cry
in *Essex*, having the goods about him: Now
may that thief be indicted of felonie in *Essex*,
but not of robbetrie by the highway: for he is
a felon of those goods wheresoever he shall be
found with them: But hee is no robber by the
way, save only in that shire where the way is:
Et debet (saith *W. Bract.*) *quisque iure subiacere*
ubi deliquit. Albeit, the statute (25. H. 3. cap. 1.)
hath now equally depprived him of his Clergie
in both the Shires.

The name of
the person
offended.

The certaintie of the name of the person to
whom the offence is done, is also in most cases
requisite. But yet if the Endicement be *quod*
bona & catalla cuiusdam hominis ignoti felonice
copis, or *quendam ignotum felonice depradavit*, it is
good, because of the Kings advantage of for-
feiture thereby, *Fitzh. Endicement* 12. And by
the opinion of Read and Fineux, *Trin.* 12. H. 7.
(reported by Dyer 285.) an Endicement of
Ratray and Assault, in *quendam ignotum*, is
good enough, because the partie is at no mi-
chiefe thereby, seeing that if hee should bee
afterwards indicted of that offence by the verie
name of the person (supposed in the first En-
dicement

ment to be known) yet might be helped by
giving anerement, that it was the same and
was other offence.

You may see an Endowment (Fitz. Endict. 9)
and *A. verberavit*, & xx. *Laccus precij* &c. was
thought sufficient, without shewing to whom
the Tackes did belong: whereat Sp. Stanford
(fol. 95.) marvelleth, saying that hee saw no
cause why it should be good, unless it were for
that the matter could not be made more cer-
taine. But peradventure certaintie in Endow-
ments, was not in those daies thought so need-
full as now it is holden.

If the goods of a Parson of a Church be tak-
en, the endowment must be *bona Rectoris*: and
not *Ecclesie*. And if the goods of the Church;
then *bona Parochianorum*, in *custodia guardianorum*,
and not *bona Ecclesie*, 37. H. 6. 30. If they be
the goods of a Parson and Communitie, and
the Parson dyeth before the Endowment, then
it shall be *bona communitatis*, saith Mar. but en-
quire of that because they have no such name of
Corporation.

If the Endowment be, *quod A. verberavit B.*
& *unum equum precij xx. felonice cepit*, and doth
not say, *ipsius B.* yet is it good enough 30. H. 6.
Fitz. Endict. 9. But if it be *quod unum equum pre-*
dicti I. cepit, and there were no mention of I.
before, then it is void, 9. E. 4. 1.

If the goods of a man be taken and he ma-
keh executors, and dyeth, the Endowment

It

shall

shall be *bona testatoris*: but if they were taken after his death, it shall be *bona testatoris in custodia executorum existentia*: if the enditement be, *quod A. furatus est tunicam hominis ignoti quem inuenit mortuum*, that is not good, 11.R.2.Fitz. Endit. 15. If a man take away a Coat of arms, which hangeth ouer a Tombe in a Church, the Enditement shall say, *bona executoris*, of him whose Tombe it is: But if a Graue stone be taken away, the Enditement shall be *bona Ecclesie*. Mar. If my goods be taken by a Trespassour, and an other taketh them from him, the Enditement shall be *bona* of him which had the last possession. But if I baile goods to one, from whom they be robbed, then it shall be *bona* of me in his keeping. Marr. If an Enditement be, *bona capella in custodia &c.* or *bona domus*, or *Ecclesia tempore vacationis*, it is good, 7.E.4.14.

The name &
the value of
the thing.

The name (and value) of the thing in which the offence is committed, ought also to be comprised in the Enditement: for an Enditement of the taking *bona et catalla*, whether it be in trespass or felonie, is not good, for the uncertainty what goods they be: and if it be of dead things, it may be *bona et catalla*, expressing the names thereof in certainty: but if it be of things living, it shall not say, *bona & catalla*, but *equum, bouem, ouem, &c.*

Again, the value (or price) of the thing is commonly to be declared in felonie, to make it appear

appears from petite Larceny: and in Trespas,
to aggravate the fault and fine: But yet an
Embatement of the taking of beasts *feræ naturæ*,
as Doers, Hares, Partridges, or Pheasants,
is not good, unlesse they be taken in a Parke,
or Warrein, that be liberties, 8. Ed. 4. s.
ss of Charters, because their value cannot be
estimated.

In all cases (saith M. Marr.) where the matter
brought to be expressed in the Embatement,
there also it must be said; *pretij*, or *ad valentiam*:
as if it be of the taking of Doves in a doves
house, or young Hawkes in wood: And where
it is of a live thing or things, it must be *pretij*:
and so of a dead thing in the singular number:
but if it be of dead things in the plurall num-
ber, then must it be *ad valentiam*, and not *pretij*.
Again, if it be of a dead thing that goeth by
weight or measure, the forme is to say *pretij*,
and not *ad valentiam*.

If the embatement be of taking away Coine,
which is not current, it shall say, *pretij*: other-
wise it is of money current, because that car-
rieth his value and price with it. If it be *quod
proditoris fecit grossos, vel denarios*, it shall be *ad
valentiam*, and it shall not say, *20. libras in dena-
rijs*, or *in pecunia domini regis*, but *ad instar pecu-
nie domini Regis*, Marr.

Sundry other dainties and nice differences
both M. Marr. make, where a man shall say, *pre-
tij*: where *ad valentiam*, binding þe embatement

Pretij, and
not *ad valen-
tiam*, &c.

to that rule which the Register taketh for the Originall writs of Trespasse: but for as much as Nele. 9. E. 4. 26. saith, that Enditements be not tied to that forme, and because that rule of the Register is not very constantly obserued in Trespasse it selfe (as a thing not materiall, in the opinion of Fitzh. in his Nat. Br. fol. 88.) I thought it best to make choise of these (that I haue) for publike vse, and to leaue the rest for priuate learning.

The manner
of the fact and
nature of the
offence.

To the further certaintie of the Enditement, the very manner of the fact it selfe, & the nature of the offence, ought to be mentioned also: for if the Enditement be, *quod A. capiu pro feloniam, felonice & voluntarie ad largum ire permisit*, this lacketh the certaintie for what felony he was take, & is thereby void, 8. E. 4. 3. And so, if the Enditement be, *quod felonice fregit prisonam apud A.* and do not shew for what felony he was imprisoned there. So if it be that a man made a hundred shillings of Alchimy *ad imper pecunie domini Regis*, and doe not shew like to what money, as groats, or shillings, &c. it is void, Fitzh. Endit. 10. And therefore, in Murder or Manslaughter, it doth well to expresse the stroke whereof the death ensued, Collection Dier 96.

If the Enditement be, that A. spake such words against the King, and lay them down in certaine, *vel his similia*: it is void for the uncertainty, Brooke *action sur le case* 112. And if it

That A. and B. *manu forti intraverunt in tenementum* &c. that also is insufficient for the like uncertainty: because the word *tenementum* may as well extend to a house or cottage, as to land, meadow, pasture, &c. Dalryson.

So if the Indictment run thus: *Apud Canonicat. predict. insulsum fecit, & ipsum cum quodam cultello pretij &c. felonice percussit. & ex malicia sua precogitata murderavit*: it is not sufficient, without shewing the place where he murdered him, which may be in some other place than where he assaulted him, Collect. Dier. 69. And an Indictment of selling tanned leather, was disliked, 1. Ric. 3. 1. because it neither contained the place where, nor the person to whom the leather was sold, both which be materiall and trauersable.

If the Indictment be, that a man is a common thiefe, without shewing especially in what thing, it is nothing worth, 22. lib. Aff. Pl. 75. & 29. 45. And so if it be of a generall extorsion against an Ordinarie, without shewing in what, by 25. E. 3. Stat. 3. c. 9. And so also if the Indictment stand upon these termes only, *Insidiatores viarum, et depopulatores agrorum*, by 4. Hen. 4. cap. 2. And thereupon the Court said 17. E. 4. 4. that upon such an Indictment, the party shall be dismissed. Notwithstanding the Commission of the Peace hath the words, *Insidijs iacnerint*, but it goeth further, *ad gentem nostram mayhemandum*.

Neither is it good in an Enditement against an accessory, to say, that he received the goods, without telling, that he received the Felon, 27. lib. Ass. Pl. 69. 9. H. 4. 7. & 25. E. 3. 39. nec to say, that he *sciens felonem domini regis apud A recepit*, without shewing what Felonie he committed, 7. H. 6. 65. nor without telling, that he (knowing it) received him feloniously, 7. H. 6. c. 2. unleſſe he receive one that is attainted of Felony in the same County: for then he must at his perill take knowledge of the attainer, and so no such mention of knowledge needeth to be used, as it is holden, 8. E. 4. 3. But enquire thereof.

And if such an Enditement be, *Sciens ipſos 4. homines feloniam &c. fecisse, apud D. felonice recepit*, it is not good, for that it sheweth not, which of them he received, 30. H. 6. 2. & yet, if some be Endited jointly, then are they also each one severally Endited thereby 6. E. 4. 5. Markham.

Nature of the offence.

Concerning the nature of the offence, it is to be observed, that in an Enditement of Treason (presentable before the Justices of peace) the word *proditorie* ought to be used: In the Enditement of Murder, *murdran* it is necessary 9. Ed. 4. 26. and that word alone implieth *ex malitia premeditata*, Collection Diet, 69. But if without *murdran*, it be. *Quod A. occidit B. ex malitia premeditata & voluntarie*, it is not enough because one man may kill another so,

in a wager of battell, and yet be no murderer. And for the same reason, if it be of manslaughter, it must be felonice.

An Indictment was, that the son had taken the sick father, & caried him into the cold weather, wherof he died, but it was disallowed because it lacked felonice, Fitz Endict. 3. Against, if the indictment be of burglarie, then it must be *Burglariter, et ea intentione ad feloniam sine homicidio faciendum*: for it is not enough to say, *felonice fregit domum mansionalem in nocte*. And if it be of Rape then it must say, *felonice rapuit*, for (without rapuit) it suffiseth not to say, *felonice cepit Aliciam, & eam carnaliter cognovit*, 9 E. 4. 27 & 11. H. 4. 12.

If it be *furatus est*, it seemeth to Marr. to be good without the word felonice, but 18 E. 4. c. 10. against him.

If it be *felonice abduxit unum equum*, it is not of value without saying, *cepit*: neither is *cepit* good alone, without *abduxit*: for it must be *felonice cepit & abduxit*, Fitz End. 4. And if it be *felonice succidit arbores et illas asportavit*: *et vi et armis succidit arbores, et felonice asportavit*, neither of them will make it felonie, because the trees be a part of the freehold, wherof no felonie can be committed, 11 Lib. Ass. pl. 32. But if it be *vi & armis succidit arbores, et eas felonice* (at another day after) *cepit et asportavit*, that will make it felonie, as I have said already. And if the indictment be of *petit larcenis*, it ought to have felonice in it, 27. H. 8. 27. And

And albeit the Endiement be but of a *Spa*hem, it must say, *felonice maibemans*, and *Spa*hem is no felonie, but an haynous, and (as it were) a felonious trespassse. But where in an Endiement of felony, the word *felonice* wanteth, there the Endiement may neuertheless stand good to make a trespass, 1. H. 7. 7. 6. H. 7. 4. & 18. E. 4. 10.

And in an Endiement of trespass or felonie, it seemeth that the words *contra pacem* ought to be yet vsed: but the necessitie of the words, *vi & armis* (viz.) *cum baculis, cultellis, &c.* be taken away by the statute 37. H. 8. cap. 8. Nevertheless *Sp.* Stanford fol. 94 is of the opinion, that it is not amisse to vse those words, so long as the circumstances of the fact do require them, for (saith he) The circumstances of an act, doe either aggravate or diminish the offence therein.

If the Endiement be of forcible entrie, then the words *vi & armis* be needlesse, because they are necessarily implied in the word *force* *Man*. And if the Endiement be founded vpon a Statute, it ought to say, *contra formam Statuti*, in *huiusmodi casu promissi, ac editi*: or where many Statutes do concerne one offence (as in the case of Lineries and such like) *contra formam diversorum Statutorum*, without speciall naming of any: and then the best shall bee taken for the King. But an Endiement of a Riot, without saying, *contra formam statuti, &c.* is not good, as

may appeare in the *Tranſiſe*, cap. 13. following because it is no riot, but by that Statute. And yet, it is not of neceſſitie, that the Statute be verbally rehearſed, but only that the offence againſt the Statute be ſufficiently and with full words deſcribed, *Comm. n. 1. & 79.*

In the twentieth yere of *Quene Elizabeth*, a man was endiaed upon the Statutes, 1. *El. cap. 1. & 13. El. cap. 2.* for ayding an other knowing him to be a principall mainteyner of the authoritie of the *See of Rome*, *contra formam ſtatutorum prædictorum*: but because the Endiaement wanted certaine materiall words (expreſſly mentioned in the acts) viz. upon purpoſe, and to the intent to ſet forth and extoll the authoritie &c. the Endiaement was thought inſufficient by the greater part of the Juſtices (aſſembled for that purpoſe) notwithstanding the words, *contra formam ſtatutorum prædictorum* were therein conteyned, *Collection Dyer 363.*

Againe, it is not ſafe to recite the daies or places, of the beginnings, continuances, prerogations, or diſſolutions of the parliaments, leſſ by (miſtaking of any of them) the whole Endiaement fall to the ground thereby, *Ibid. 303.*

Thus ſurre of theſe points by way of ſhort, rule and direction: for the better imitation and praſiſe whereof, you may ſee the helpe of ſuch ſozmes

formes of endiements, as the Appendar at the end of this worke will affoord you. Now let us with a few words consider what endiements be receivable by the Justices of W. and what ought to be rejected by them.

**Endiements
to be received
or rejected.**

Generally they may receive Endiements befoze themselves, of all causes being either within their Commission, or within the Statutes whereof they have to enquire. And they may also receive endiements taken befoze the Sheriffe in his Turne lawfull, that is to say, so that the Turne be holden within the moneth after Easter, or within the moneth after Michaelmas, & so that those Endiements or Presentments be indented and sealed between the Sheriffe & the Jurors, and so that they be made by the oath of xij. men at the least, & that those Jurors be of good fame and *legales homines*, that may dispend yearly xx.s. of freehold, or xxvj.s. viij.d. of copyhold, W. 2. c. 14. 1. E. 3. c. 17. 3. 1. E. 3. c. 14. 1. E. 4. c. 2. & 1. R. 7. c. 4. And for this purpose the said statute, 1. E. 4. c. 1. binds the Sheriffe to certifie to the Just. of W. at their next Sessions, the Endiements found in his turne or Lawday. It seemeth also (by way of admitting) in the booke 27. H. 8. 2. that the like ought to be done of the Presentment of felonie in any Act, by vertue of the said statute of 1. E. 4. c. 1. But that is further to be enquired of, for I find no better warrant for it.

The

This is certaine, that Iustices of the Peace ought to receiue Enditements found in any *Leets* or *Lawdayes* vpon the statute made for the breeding of hozles: to which end also, the Court holders of such *Leets* are bound to certifie the same vnto them within the space of 4. daies, 32. H.8. cap. 13.

But Iustices of the Peace haue none authoritie to receiue an Enditement, of the killing of a man *se defendendo*, saith Stanford 15. as he had heard say: but enquire further thereof: for though it be not felony (as appeareth by the statute of Gloucest. cap. 9.) Yet be there other wordes in their Commission extending to giue them power to heare and determine of such an offence, But they are not to receiue an Enditement of the killing of a Part proclaimed, for the Iurisdiction of it belongeth to the Iustices of the Forrest. 21. Hen. 7. 30. *Fineux*. And (as it seemeth) they may reiect an Enditement that findeth any matter of Record, as *Titlawrie*, or such like, vnlesse it be shewed vnto the Iurores *sub pede sigilli*: for Iurores are to find matters in deed onely, and not of Record, 1. H. 7. 6. & 3. Hen. 7. 1. & 10. And so, if the Sheriffe will offer Enditements of *Liueries*, *Rauishment of Women*, or of *Felonies* by Statutes, or of such other causes (whereof they haue no power to enquire in their turnes) the Iustices of the Peace ought to reiect them, 4. E. 4. 31. 8. Ed. 4. 5. 22. E. 4. 22. and Stanf. 87.

Thus

The duty of
Justices &
their Endite-
ments,


Thus much for the better assistance of our Justices of the Peace, I thought meet to say of Enditelements: not onely because they be the chiefe base, and groundworke whereupon the whole triall is afterward to be built and stampt: But also because the Justices (being Judges of the Court) ought of Office to see that the bills of Enditement have sufficient matter and forme in them, 14. E. 3. 74.

And for that end, it is the manner (in some places) to commaund, that the Enquest take no Bills, but only such as y^e Justices themselves have first perused. Notwithstanding, as it is certain that the Enquest may safely doe the contrary, so long as the Bills doe carrie good matter and allowable forme: so I will advise, that the Justices shal rather peruse the Bills after that the Evidence shall be thereupon given to the Jurie, then to put their pens into them before y^e the Enquest shal be enjoined: taking it to be, not only no hinderance at al to the service, but also the most warie and secure way for the Justices themselves to walke. For though it be said (35. H. 6. 14. & 12. E. 4. 18.) if a Bil of Enditement be delivered to a Justice of Peace, at (or before) the Sessions, which he promiseth to read, and to deliver to the Jurie, and so doeth accordingly, that he shall not be charged for it in a Writ of Conspiracie: yet may it be thereupon doubted, whether he shall be excused, if (upon conference had) he doe buske himselfe either

that to write, engrosse, or amend the Bill before it be preferred to the Enquest that shall handle it. And seeing that the Justices doe commonly receive the bills from the Enquest, with their expresse assent to amend any defect of certainities in the forme only: & may also award Venire facias against the Enditors to amend a bill upon their first oath, at any time before it be removed, (8.H.5.7.& Sc. 97.) so that the business is not a whit impeached by this forbearance, there is no cause (as I thinke) for the Justices of the peace to anticipate the matter before the right time: but rather to leave the first examining and ingrossing of the Bills, to the Clerks of the Peace or other Ministers of the Court, & (after the Evidence given) then to consider, whether they be formall, or ought to be removed.

Of the presentments and Informations
of Officers, and other men.

C A P. VI.

 Having shewed how these Justices take knowledge by the labour of the Jurors in Enquests: it followeth to declare also how they may have understanding by other men: And that is to be done, either by the presentment of publicus officers, or by the Innomination of privat persons.

In

**Presentments
of Justices of
Peace and
Constables.**

In some cases therefore, these Justices may heare one another, for every Justice of the peace may (upon his proper knowledge) make Presentment at the Sessions, of any offence done against the Actes (2. & 3. Phil. and Mar. c. 1. & 5. Eliz. cap. 13.) concerning the amendement of the highwayes. And in this, and with like cases, his report hath the force of a Presentment of ry. men: So that he and his fellows may proceed upon it, 11. H. 6. 5.

Of like valne is a presentment made at the next Sessions by searchers appointed to examine the true making of Tyle, 17. Ed. 4. ca. 4. And of some such like strength also (as I thinke) is the presentment of the Constables, concerning sundry points contained in the Statute of Wnich. 13. E. 1.

But I doubt, whether any such force be in a Presentment there made by the Surveyors of the highwayes in the Tithes of Kent, &c. by order of the Statute 39. Elizab. cap. 19. For (as I thinke) that amounteth to nothing, but onely to giue matter to the Justices of Peace, to charge the Enquirers therewithall.

**Information
by private
men.**

The Court may also be given to vnderstand by the meanes of private men: and that either for the King onely, or for the King and themselves, or (in some speciall cases) for themselves without the King.

That which is for the benefit of the King,

for him and the partie, is sometimes moved by the free offer of him that openeth the matter, & sometimes wrought by commandement of the Court.

The free motion of the partie, is sometimes by word only, which is properly but a Suggestion: and sometimes by writing, named a bill, plaint, complaint, or information: all which be not alwaies of one force in this businesse.

Free and voluntary Information.

For, albeit that we read (1. Ed. 5. 6.) that the Court of Chancerie will sometimes both take knowledge, and also award Proceſſe upon an Information by word in the behalfe of the Prince, and that 39. H. 6. 41. also admitteth such a matter: yet I think that beſore Juſtices of the peace, theſe Suggestions and Informations both (be they by word or writing) are but of the force to ſtirre up the Juſtices to recommend the cauſe to the Enqueſt, and not to award any Proceſſe upon them: unleſſe it be in certaine caſes, where that validitie is ſpecially given them by the ſtatutes, as you ſhall hereafter perceine.

There was once a time (I confeſſe) when Juſtices of the Peace might haue awarded Proceſſe upon an Information (for the King only) of offences againſt any penall Lawes, ſuen as they may yet upon Endicements againſt the Peace: but that laſted not long, and therefore that courſe is holden now in ſpeciall ſtatutes only.

Reuer.

Proclamation Nevertheless, at chiefe Sessions (saith Judge Priour, 35.H.6.15.) the Justices of the Peace doe use to make Proclamation, that if any will informe for the Prince, hee shall be heard: and thereupon any man may come in, and may both informe the Justices of the Peace, and give evidence to the enquest, without danger of conspiracie, by the opinion of the Court in the last said booke.

And as that which ariseth upon Presentment or indictment, is properly called the suit of the King (as I told you out of 19.Fitz.) so this other (whether it be Bill, Plaint, Complaint, or Information) is more aptly termed the suit of the partie: at whose suit, the Justices of the Peace, may heare of divers offences either for himselfe, or for the king. And in other statutes at large, such rules are to be followed, as they themselves doe prescribe.

In this Information, the statute of Additions (1.H.5. cap.5.) seemeth upon the bare words to have no place: for Informations be not mentioned in it: and upon that reason, the Court (13.H.7.21.) did hold it cleere, that if Rescous be returned by the Sheriffe against certaine persons, without their Additions, yet in that case they may well be outlawed upon it.

The other compulsoire informations, groweth by examination of witnesses called into the

Forced information.

the Court, and is set forth in the Statute of
Drovers and Badgers (3. El. cap. 12.) where it
appeareth, that (upon the examination of two
lawfull witnesses) the Justices of Peace may
make Warrants, as if it were upon an Inquisi-
tion of 12. men. The like might they have done
upon the Statute of Armour, 4 & 5. P. & M. c. 2.
(which is now repealed by 1. Jac. cap. 25.) And
the very like also may they do upon the Statute
made against Foresters, 5. Ed. 6. c. 14. which
last said Statute seemeth (for this point) to have
been followed, as a pattern, by the other two:
so rightly they tread in the steps of the same.
Whereunto also you may add the examination
of the Master and Mariners of Ships, where-
in Coyne or Tunnage shall be transported
against the meaning of the Statute, 1. & 2. P.
& M. c. 5.

Thus much of the knowledge of causes ex-
hibited by such as either doe it at large for the
King onely to have the offence punished, or be
specially allured thereto by regard of benefit
growing in common to them with the King
thereby. Now of those that sake to inform the
Court for profit insuing to themselves alone.

The knowledge that commeth this way, is
by the private suit and proper action of the par-
tie, and is therefore in the Statute (11. H. 6. c. 6)
termed a suit between partie and partie: where-
of that Statute hath no lesse consideration, than
of those other suits that bee for the King him-
self.

Suit between
parties.

selfe : and therefore provided, that they all should not be discontinued by new Commissions of the Peace to be made.

I know that there be not many statutes which doe give power to the Iustices of peace, to hold plea of action betwene parties and parties: and I think it hath not bene often experimented vpon those verie statutes which doe give it: and how the Iudges doe expound this present statute (11. H. 6.) I cannot tell. Nevertheless, because I may neither wittingly conceale any such part of their authoritie, and iurisdiction (although it were so put in mine own opinion) nor safely report it without some proofe and warrant, I will give you a few examples of this kind (as I take it) and will leave the rest to further search.

The Iustices of Peace have power to enquire, heare, and determine, of all the defaults against the statute (made 3. H. 5. c. 11.) concerning the leuying of the wages of Knights of the Parliament, as well by enquirie at the suit, as by action at the suit of the parties.

So may they heare and determine by Information, action of debt, or bill, the offence against the statute of Labourers, 5. El. 4. And likewise by Information, or any other action, the offences of taking fish, deer, or hawkes, forbidden in the same Parliament, c. 21.

In which, and such like, the Iustices of Peace ought to proceed after the vsual manner of other Courts

Courts of Record at the Common Law (if I do not mistake it) and therefore I will goe no further with it, but will prosecute that hearing and determining that moze properly and commonly pertaineth vnto them, if first I may shew you, how they are sometimes prevented in that behalfe.

Of the impediments of proceeding vpon
Endictments before the Iustices of Peace,
 and therewithall of the Certiorari
to remove Records.

CAP. VII.



It falleth out not selddome, that when Iustices of the Peace haue taken an enditment found before them, they cannot proceed to hearing and determining vpon it: either because it is grounded vpon some such statutes as giueth vnto them no further power, but only to inquire thereof: or else because the Enditment is taken out of their hands by Certiorari, and conveyed to Iustices of a higher authoritie, at the sollicitation, and by the meanes of some parties grieved, to the end that they may either transter it aboue, or there auoide it for insufficiencie of forme, or matter.

where Justices of peace may inquire onely.

And therefore Justices of the Peace may onely inquire of certaine the offences against the Ages (1. Eliz. cap. 2. and cap. 3. 5. Eliz. cap. 1. 14. Eliz. cap. 4.) touching the knowledging of the Kings Supremacie, or the service of God, or conveying to the Church, or the stablishment of true Religion: As you may see, 23. El. ca. 1.

And they may onely inquire of any the Treasons, or misprisions of Treasons, made by the same Act, 23. Eliz. cap. 1.

In the rest (so farre as I have found) their power of Enquire is accompanied with the authority to heare and determine also. For this want of Jurisdiction is not found in the Commission of the Peace it selfe, but onely in certaine Statutes, that (for weighty causes) do restraine this further proceeding.

By what meanes such Enditements shal be removed to those higher Courts, I will shew you when I come to speake of Certifying the Records of the Sessions, and will now goe on with those other Enditements that be removed by labour of the parties.

Enditements removed by labour of the parties.

Albeit that in the removing of Pleas, between party & party, from inferiour to higher Courts, by Tot, Pone, Recordare, &c. there was wont to be a probable cause alleged, in which the same were removed: yet in this case of the Croikes there needs no cause to be compassed in the writ of Certiorari, because they are the Courts of the King, against whom the

offence is committed, and it breedeth neither
murder to the offender, nor loss to any other
person, in what Court soever the offence be
tried.

This *Certiorari* then, may command either
the Record it selfe, or *tenorem Recordi*, to be sent
up, and it ought to be obeyed accordingly. For,
upon faile therof, first an *Alias*, then a *Plurii*,
(*vel Causam nobis significes*) and lastly, an At-
tachment shall go out against them that should
send it, as M. Fitzh. noteth in his Nat. Br. fol.
245. but I have heard, that they use a *Sub poena*
at this day.

And albeit the *Certiorari* be a *Superfedeas* of
it selfe, yet may the partie upon the *Certiorari*
purchased, have a *Superfedeas* also, directed to
the Sherife, and commanding him that he
arrest him not upon that Record before the
Justices of Peace, Fitzh. *ibid.* fol. 237. In
which place also he doubteth; whether the Ju-
stices of Peace themselves ought of dutie to
award their owne *Superfedeas* to the same ef-
fect, after that the writ of *Certiorari* is brought
to their hands.

This writ of *Certiorari* is ever directed to þ
Justices of Peace, and yet (as you have heard)
the Custos Rotulorum only hath the keeping
of these Records, but the ancient Commis-
sions of the peace had no Custos Rotulorum spe-
cially named in them (as I have told you) and
then this certifying belonged to the all, which

toime the writ retaineth to this day. And if it
fall in question, whether such a *Certiorari* were
delivered to the Iustices of Peace, or no, that
must be tried (saith the booke 10. H. 7. 24.) by
the verdict of 12. men.

Now, if a *Certiorari* come to the Iustices of
Peace to remove an Enditement, & the partie
sueth not to have it removed, but suffereth it
to lie still, then the Iustices of Peace may
proceed, notwithstanding the Writ, as Hub-
bert the Kings Attourney said, 6. H. 7. 16. For
otherwise the triall of a Felon (if the Endite-
ment were of Felony) might be delayed and de-
luded also. But yet Keble held opinion against
him, and was fearefull that in such a case it
might proue Felony to make execution of the
Felon after such writ received: and (to say the
trueth) the Iustices ought of office to send it
away, because the writ containeth in it selfe a
commandement to them so to doe.

And if a *Certiorari* come to the Iustices of
peace to remove an Enditement, and in truth
the Enditement was not taken till after the
date of that *Certiorari*: yet, if the Enditement
be removed thereby, it is good ynough, for that
they both be the R. Courts, 1. R. 3. 4. & in such a
case it is now usuall to remove it.

The manner of
the Certificat.

In the making of a Certificat upon this *Cer-
tiorari*, the Iustices of the Peace ought neither
to omit that which doth authorize them, nor to
spread that anthozitie which belongeth unto
them:

them : For on the one side, if they certifie an
Enditment of felonie, or of a riot (as taken
from *Iusticiarijs ad pacem*) it was not thought
enough, without saying further, *Necnon ad di-*
uersas felonias, &c. and otherwise, it was doubt-
full whether the enditee shalbe quite dismissed
or no, because the Iustices of Peace had then
no Record at all remaining with them (for the
Clarke of the Peace maketh his entrie accor-
dingly) and that Record which they sent vp, is
insufficient. And therefore the Clarke of the
Crowne was forbidden to receiue any such
Certificat, 12.H.7.25. But happily the new
words in the reformed Commission of the P.
will now dissolve that prohibition.

On the other side, if they certifie an Endit-
ment of felonie not determined in the R. bench
they ought not (without warrant) to certifie
an other record of the acquittal of that enditee
for the same matter: for nothing ought by the
to be sent thither without warrant, but that
which is Executozie, and needeth the helpe of
that higher Court, 8.E.4.18.

And if a Certiorari be to send by the Endit-
ment of A. in which Enditment some others
be endited together with the same A. yet need
not the Iustices of the Peace to make Certifi-
cat concerning any but A. 6.Ed.4.5. For al-
though they be named jointly, yet be they en-
dited severally (as I haue said before) and the

King may pardon A. without forgiving the other, 6. E. 4. 5. Mark.

Againe, if the Enditment be of the stealing of two horses, and the Cerruorari speaketh but of one horse: it seemeth that they neede not to certifie it at all, because of the variance: for it is certaine, that they of the Kings Bench will not arraigne the Enditor upon it: but will rather write againe to know, whether there be any Enditment that agreeth with the Writ, 3. Lib. Ass. pl. 3. Cur.

Finally, it is noted (8. H. 5. 5.) that Hankford the chiefe Justice of the Kings Bench, observed this order, that he which brought either an Enditment (taken before Justices of the Peace) should endorce his name upon the backside of it: which I note, not to teach them of the Kings Bench, but to let the Justices of Peace see, that there is some heed to be taken of him by whom they send up their Enditments.

Of

Of the sundrie sorts of Procelle vpon
Endictments and Informations :
 and of the Superledeas
for stay of them.

CAP. VIII.

The Court being thus made priue and
 possessed of canes, must of dutie pro-
 ceed to the handling (or hearing) and
 triall of them : the which because it cannot in-
 differently doe, vnlesse it keepe one care for the
 offendor, that he also may be heard in his owne
 discharge , as others were heard to lay the
 charge vpon him: the maner is (if he be absent)
 to award Procelle against him, to come in, and
 to make his answer.

But if he be present in Court, and confesse
 the Endictment, then neede: h there no Procelle
 at all : for he shall be committed forthwith to
 prison, vntill that he hath made his fine, or gi-
 uen sureties for it, 1. H. 7.

Commonly an Endictment or Information
 (being but an accusation or declaration against
 a man) is of none other force, but onely to put
 him to answer vnto it. And herof all Procelles
 hath the name, because it proceedeth (or goeth
 out) vpon some matter, either originall or
 triuiall.

Procelle
 in it is named.

Notbeit I make difference, whether this
 Procelle

processe be grounded vpon an Enditment, or vpon some other information: so they be not all one, vnlesse it be (in a few stat.) so specially prouided: although the statute (32.H.8.c.10.) did once conioine and couple them.

**Authozitie
to make out
Processe.**

The authozity of making Processe vpon inditments is giuen by expresse words in the Commission: and in other cases (where it is not namely giuen) it is implied of congruence (or rather of necessity) in the words heare and determine, which cannot be performed, vnlesse the party either do come in gratis, or be brought in by the power of Processe.

This Processe ought alwaies to bee in the name of King thus, *Iacobus Dei gratia &c. Vicecomiti Kancia, &c.* And therfore also (saying he is partie) it must say, *non omittas propter aliquam libertatem quin &c.* Fitz. Prerog. 21.

**Teste of the
Processe.**

And the Teste therof may be vnder the names of some two Iustices, so that it be made sitting the court in the Sessions, Commission del Peace, and Broke uir Peace, 6. & 7.

**New Com-
missions of
Peace doe not
discontinue
the old processe**

But now whereas the Commission giueth to the present Iustices, authozity to make processe vpon Enditments, taken as well before former Iustices, as before themselves: al that doing was wont to be discontinued in late, by the comming out of a new Commission of the peace, vntill that the statute 11.H.6.ca.6. shd establish, that no pleas, suits, or processe (to be taken before Iustices of the peace) should be discon-

discontinued by a new commission of *ſ* Weare to be made: but that they should stand in their strength, and that the Justices (assigned in the same new Commission) should haue power to continue the same, and to heare and determine all that which dependeth vpon them. And of the like effect there is a branch in the later end of the Statute 1. Ed. 6. ca. 7.

Furthermoze, whereas Sherifes (and their Bailifes) vled to arrest men, & to proceed vpon Endiments found in the Turnes, or Lawdoates: another statute (made 1. Ed. 4. cap. 2.) wyngeth that power out of their hands, and deliuereth it ouer to the Justices of the Weare: appointing them to proceed vpon them, as if they had bene found befoze themselves.

Endiments
beinge forfeits

Now seeing that this Procelle of the Weillons is sent out to his end, that either the party shall come in, to answer and to be iustified by *ſ* law, or else that he shall (so) his contumacy) be depriued of the benefit of law (so) so much in effect do *ſ* words of the Commission, *Quousque capiantur, reddant se, aut vtiligentur*, import in this) it followeth that in all cases of Endiments (if the party be returned insufficient) the Procelle of Vtilawrie, lieth against the offender, if he be not taken befoze, or doe not otherwise offer & yeld himselfe. And then the power of these Justices endeth with *ſ* vtilawrie: so) they can make no *Copias Vlagatum*, but

Procelle of
Vtilawrie.

but must certifie the Writ into the Bench of the King.

A good while after that Commissions of the peace were first awarded, there was not given by them any power to make out any process of Writ: for I have told you of a Commission of the peace (20.E. 3. Parl. 1. Patent. in dom) wherein were words authorizing the Commissioners to arrest all such as should be ended before them: but by and by this followed there, *Et ad nomina eorum qui fuerint, & eorum vobis insiliari noluerint, certificandum in Cancellaria, &c.* So that if they might not get them arrested, they could go no further, but to certify their names only.

The generall
Process upon
Enditements
of Treps.

Now the meane to this Writ is not all one in all cases: for, upon Enditement of trespasses against the Id. or such other contempt, the Process is one: and upon Enditement of Treason (or Felony) it is another.

Upon Enditements of Trespass against the Peace, of Conspiracies, & of Routs, in presence of the Justices, or in affray of the people, if the offenders may not bee found, nor brought in by Attachment or Distresse (by reason of the insufficiency) the Process of Writ is to be awarded by the Statutes, 18.E. 3. Stat. 1. Stat. 3. cap. 5. The like is against such as be indicted upon the Statute of Rincies, 8.H. 7. c. 4.

And a Venire facias first, and then (if there
upon

when he be returned sufficient) a distringas, & so the same Procelle infinite til he come inbut if a Nihil habet, &c. be at the first returned against him, then a Capias, Alias and Pluries, & after an Exigent (as it seemeth by M. Marrow, and the old precedents agreeing with the common course, as I take it) is the verie ordinary Procelle upon all Enditements (not sounding in felony, or greater offences) whether they be of Trespas against the peace, or of contempt against penall lawes: vntlesse it be otherwise specially provided by those same Statute wherupon such Enditements be altogether grounded. And of this sort these be, or were some.

Speciall
Procelle.

The statute (22. H. 8. c. 5.) concerning Bridges in highwaies, alloweth such Procelles as the Justices of the B. Bench do vse, or such as the Just. of the W. themselves shall think meet by their discretion, for the speedy amendment of those Bridges.

Upon Enditements of Lineries, maintenance, Archerie, unlawfull games, &c. by the statute (33. H. 8. ca. 10.) there was given one Venirefacias, one Capias, & then the Exigent: But it is to be weighed, whether the stat. (37. H. 8. cap. 7.) which utterly repealeth that stat. (33. H. 8.) do transferre the manner of that procelle vnto the ancient Quarter Sessions (as it doth sundrie other parts of the said statute) or no.

The statutes of Labourers (27. H. 6. ca. 11.)
gane

gane (after the Enditeiments grounded there upon) an Attachment, Capias, & Exigent: But I think it no great doubt, but that point is taken away for Labourers, by the statute 5. El. cap. 4. and standeth good for none, except it be for Wituallers only.

Processe by
on Recognis-
sance.]

The Statute 5. Ed. 6. cap. 25. giueth power to the Iustices of peace, to enquire of Alehouse keepers, whether they haue done any act to the breach of their Recognisance. And if any matter be presented, the to award Processe against the offender, to shew why he should not forfeit his Recognis. but what this processe shall be, I will not determine: for, I do not find, that in any other case (though it appeare that a man hath forfeited his Recognisance) the Iustices of the Peace can award any Scire facias, or other Processe to call him in vpon it: but rather to certifie the same into higher Courts, that from thence Processe may issue out, to call the partie to his answer.

Processe into
other Spres.]

Some other statutes there be also, that haue extended the authority of the Iustices of peace (in sending processe) beyond the bounds of their own Commission. for by the statute (1. Ed. 6. ca. 1.) the Just. of the Peace (the one being of the Quorum) may make Processe against such as he thereupon indicted for deprauing the Sacrament, by two writs of Capias, and the Exigent, and by Capias vilagatum, into any place within the R. dominions.

So, if a servant depart into an other Shire, the Justices of the Peace of that Shire (where the departure was) may grant Writs of Capias to the Sheriffe of that other Shire (where the servant is) returnable before themselves, 5.El.c.4.

The like may they doe (by the Stat. 21.H.8.c.1.) where a decayed bridge lieth in one Shire and the person or lands chargeable thereto doe lie in an other Shire.

They may also award proces of attachment into any sozein Shire against the accountants for money leuied towards the making of any Gaole, 25.H.8.c.5. & 5.El.c.24.

But if the Enditement be in one Countie, and the enditoe be named to be (then, or *super*) dwelling in any other Countie, there is a special course of Process in that behalfe for his benefit, appointed by the Stat. 8.H.6.c.10. both for treason, felonie, and trespass.

For (before any Exigent shall be awarded) one Capias must be sent out and returned: and then a second Capias shall goe (into the County where he is supposed in the Enditement to be, or to have been conuersant) returnable before the same Justices of the peace before whom the Enditement was taken three months at the least after the date thereof (for all Counties be now holden from moneth to moneth by 1.E.6.c.15.) by which last Writ the Sheriffe shall be commanded to take the Enditoe, if he may be found

found within his Bailiwick: and if not, then to make Proclamation in two Countie (before the returne of that writt) that the Enditor shall appeare before the said Justices of the said countie (where the Endowment was taken) at the day contained in the last said Capias, to answer to his offence: at which day if he come not then the Exigent shall be awarded against him and otherwise not.

And by the equitie of this statute of 8. H. 6. c. 10. (saith *Sp. Marr.*) if the Enditor be imprisoned in an other countie, the Justices of peace may award an Habeas Corpus to remove him before them.

But if it be mentioned in the Endowment that the Enditor is dwelling in an other countie, by the *Alias duces* only: then it is out of the case of that statute 8. H. 6. because the *Alias duces* is not to be traueled, 1. E. 4. 1.

Superfedeas
to stay procces.

But yet you must presuppose, that all this Proccesse of outlawrie may be stayed by a Superfedeas. And *Sp. Firz.* in his N. b. (f. 137.) hath the case, that if an Exigent go out upon an Endowment of trespass (found before Just. of the peace) the partie may And sureties in the chancerie (bonis for bonis) to appeare at the day of the writ, & may then also haue a Superfedeas from thence to the Sheriffe, commanding him to forbear to take him, and to let him goe if he then haue already taken him for that cause. And againe, you may see in the new Booke of

Entries

juries (fol. 346.) the W^oces upon such an En-
dment stayed by a Superfedeas issuing from
one Justice of the Peace alone, and testifying
that the partie came before him, and found sur-
re de Fine assidendo. But as I believe the for-
mer, so will I not perswade the partie of the
latter: because I thinke it not in the lawfull
power of any one Justice of the P. to award a-
ny such warrant, but that it must be done by
two Justices at the least (the one being of the
Quorum also) as the Commission now stand-
eth.

I have yet to speake of W^oces upon endi-
ments of felonies, wherein I will be short that
I may passe over to other things.

W^oces upon
Endiments
of Treasons
& felonies, &c.

It seemeth by W. Marr. that the W^ocesse at
the Common Law upon Endiments of felo-
nie, was but one Capias, and then the exigent:
for so it was upon an Endiment of death,
Lib. Ail. 22. pl. 81, & Scamf. 67. But the old
Precedents (grounding themselves upon the
statute 15. E. 3. cap. 14.) do vse the mention of
two W^ozits of Capias before the Exigent. For
that statute prouideth, that after returne of
Non est inventus, upon the first Capias, another
Capias shall be incontinently awarded, where-
by the Sheriffe shall be commanded to seile the
cattels of the Endimie, and safely to keepe them
till the day of the Capias returned: and if he
then also returne *Non est inventus*, and the En-
diment cometh not in, the Exigent shall be a-
warded

warded, and the cattels shall be sozfeited; but if he come and yeld him to be taken, befoze the retorne of the second Capias, then the goods & chattels shall be saued vnto him.

*Proces into
fozein Shires*

And here also the Just. of P. haue power to send into a fozein County, soz, whereas by the common Law, no man could be attached vpon an enditment, oꝛ vtlaw;ie of felonie, but only in the countie wherein he was endicted oꝛ outlawed, wherby many euill men were much encouraged: the statute 3. E. 3. c. 1. did take order that Just. (assigned to heare & determine felonies) might direct their Writs to any Countie in England, to take such Enditers whither soeuer they were remoued.

On the other sid, if the enditment be found in one countie, & the Enditox is therein named to be then dwelling in an other countie: I haue told you already (in this chapter) what proces belongeth to it, & therefore I will in hand with Proces vpon informations.

*Proces vpon
Informations.*

The power of making processe vpon Informations proceedeth from speciall statutes, and may not therefore varie from their direction, although they themselves doe varie greatly one from an other.

Lineries.

For vpon an Information giuen soz the King befoze Iustices of the Peace, vpon the statute of Lineries (made 8. E. 4. c. 3.) they shall award such proces as is made vpon an *Writ* of trespassse done against the King.

Peace.

ence: because the Information it selfe is (by force of that Statute) in stead of an Originall writ.

And vpon Information made vnto them, Alehouse that an Alehouse keeper hath done any act whereby he hath forfeited his Recognisance, they may (as I said) award Procces against him to shew why he should not forfeit his Recognisance by the Statute 5. E. 6. c. 25. But learne if that be meant of a Scire facias, or of some other Procces. For the rest, I leaue them to further search of such as shall haue cause to marke them.

Of Hearing vpon Confession.

CAP. IX.

The partie being thus brought in (or otherwise yielding himselfe) to answer, justice requirerh, that he be heard to speak, and therefore he may (as his case will serue) either confesse, or denie, the offence wherewith he is burdened.

And this Confession is of two sorts, first, or forced: and that former is of two kinds also, absolute, or after a manner.

In the first & open (or absolute) Confession he Free Confession.
sheweth the fault vpon him, and yieldeth him-
selfe

selfe simply to such paine as the Court will inflict for it.

And this free confession is of great force in the Law : for if it be upon an Enditement of Batterie, and (after such confession had for the King) the partie beaten will also bring his action of trespass for his owne damage : then shall the defendant be concluded by his former confession upon the Enditement, so that hee shall not be receiued to say the contrarie, 9. H. 4. 3. & 11. H. 4. 65.

But the other (which I call confession after a maner) is onely a not denying, in which the partie doth cunningly, and (after a sort) take the fault upon him, without plainly confessing himselfe guiltie thereof : as where he putteth himselfe in *Gratiam Regis, et petit admitti per se nem*, without any more, sometime (by prostration that he is not guiltie) pleadeth his pardon : and such a confession (if I may so call it) doth not so conclude him, but that hee may afterward plead not guilty in any action brought against him, 9. H. 6. 60. Cur. & 11. H. 4. 65. And yet M. 20. R. 2. (as *Sp. Scatham* reports) the rule is generally set downe, that if he once make a fine, he shall be estopped by it. Neuertheless I thinke, that the distinction (which I haue last) will reconcile the variance.

But here it is good to learne (whether the Iustices be compellable to admit such a confession by a manner, being altogether denialed
fauor

of offenders, & for decreining of the King:
as whether they may drive the partie either to
an absolute confession (for increase of the fine)
or to his traaverse, that (failing therein) he may
be imprisoned, and fined also.

The forced confession whereof I spake, is forced confession.
that which the Iustices doe wring out of the
partie by the examination of himselfe, in such
cases wherein that examination is permitted:
But because I intend to speake of examination
by it self, I wil reserve this till I come to that.

Of Hearing by Discretion.

CAP. X.



Whether the offender shal freely con-
fesse the fault, or finally yield him-
selfe to Grace, or plead his pardon
without confessing it, yet then is
this matter fully heard, and the Court made
able to determine of it: but if he shall denie
the fact, then must some other course of hearing
(or triall) be taken for it.

Dempall of the
offence, tryed.

And that is in some cases by Discretion of
the Iustices: in some other cases by Examina-
tion of the parties, or witnesses: and in some
other cases by certifficat of other men: but in
most cases by Traaverse or arraignment, both
which last trials are perfozmed by the verdict
of iij.

For Iustices of the Peace cannot (vpon an indictment of maihem) make the triall by their owne view or inspection, as the Iustices of the Kings Bench may doe, saith Marr.

The statute 1. H. 7. c. 3. pretending that offences (committed against the statutes of riots, reteyners, mainteyners, embayceries, extortion, vnlawfull games; & such like misdemeanors) were neither accordingly punished before Iust. of the P. (by reason of the great corruption & sauoz of the Enquest, swozne & charged therupon to inquire before them) nor could be otherwise conveniently corrected by order of Law, vnles they were found & presented by ry. men therto duly swozn: did enact, that from thenceforth Iust. of the P. vpon information made (for the king) before them, should haue full power by their discretion, to heare & determine all offences & contempts against many penall Lawes then in force, & not repealed.

But as one said, *Ex bonis Legibus ma'a exempla*: so, the Parliament 1. H. 8. c. 1. complained, that many men were deceitfully intrapped, & wrongfully condemned thereby, & therefore it resumed that power: yea, and the king withall chopped off the heads of some of them that had filled his fathers purse by the execution of that and some other penall statutes.

So that now againe the triall of offences ought for the most part) to proceed, either after the generall order of the common law, or vpon
(10)

Any speciall examination (or other p^{ro}ofe) as
some statutes doe giue in speciall cases: and
this hearing at libertie and discretion, hath
seldome any place.

But wheresoeuer it is permitted, that coun-
sell which 29. Bract. li. 1. giueth, is to be harke-
ned vnto: In Iudiciall hearing (saith he) besides
the bodie of the fact it selfe, these seuen circum-
stances are to be weighed, namely the cause, the
person, the time, the place, the quantity, the qua-
lity, and the event.

And for p^{ro}ofe, that hearing by discretion, is
yet in some sort suffered, take this for example.

The Iustices of Peace may heare by their
discretion, as well by examination, as other-
wise at the suit of the King, or of the partie, the
offences done against the statute p^{ro}vided for
the true making of Tyle, 17. E. 4. c. 4.

But how far this discretion, and the word
otherwise may be extended in this, and such
like cases, it cannot well be foretold, for it is
referred vnto them, and they must take coun-
sell *ex re et extempore*, for it.

Of Hearing (or Triall) vpon Examina- tion.

CAP. XI.



The obstinacie of euill doers, that would shew no conscience in acknowledging of their faults, and the corruption of Iurors that would present nothing that lay onely in their owne knowledge, haue begotten & brought into our Late, this triall by examination, wherewith it was not before acquainted.

And yet, this manner of triall is not losely permitted to Iustices of the peace, but in cases onely, where either the statutes doe generally refer the triall to their discretions, or else doe specially authorize them to take the examinations.

Examination of the parties, The examination then, is sometimes of the offenders themselves, sometimes of witnesses that can speake to the matter, and sometimes both of the parties and witnesses: of euery of which I will giue you an authoritie, or two, and

and leave the rest to your owne reading and examination.

Upon apparance (after Wroces) against the offenders of these statutes of Liveries, the Justices of Peace may examine them, and thereupon convince them, so as if they were thereof convicted by enquest, 8. H. 6. c. 4. & 3. E. 4. c. 2.

They may also call upon them, and examine all such as shall be suspected to keep Witches, or Buckstals, or that use to stalk, or to take young Persons against this statute, and may (finding them faultie) commit them to prison, till they find Sureties to pay the forfeiture, 19. H. 7. cap. 11.

And because it is often sene, that those which have committed an offence, will also excuse their fault by denying the same, therefore some statutes (as I said) doe appoint, that the Just. of the P. shall take the examination of others, besides the offenders themselves.

And thereupon, the users of false privie tokens or of counterseit letters, may be tried out by the examination of witnesses, 33. H. 8. c. 1.

And the unlawfull takers of Hawks egges or Swannes egges, may be detected and convinced by Information, and such proofes, 11. H. 7. c. 17.

Now, whereas also some statutes do enable the Justices of Peace to heare and determine by the generall use of the word Examination, without shewing of what persons: It seemeth to

Liveries.

Witching, &c.

Examination of others,

False tokens.

Hawks egges.

to us that they may therupon examin, as well the parties, as other witnesses.

Title.

Cozoners.

**Stoned
horses.**

Such an one is the statute provided for the true making of Tides, 17. E. 4. c. 4. Such another is the statute made for the examination of offences done by cozoners, 1. H. 8. c. 7. And such an other also is the statute ordained for the examination of putting into forests or wastes any stoned horses being under the height of 18. handfuls, 32. H. 8. c. 13. But (to put away all doubting) the statute against Logwood giveth expressly the examination both of parties and witnesses, 39. El. c. 11.

Thus far of examinations: which whether they ought to be taken upon oath or no, where the oath is not namely given, you may conclude by that which I have already said thereof in the second booke: & yet (for more aid towards your resolution) I say now, that these examinations ought alwaies (in my slender judgement) to be taken upon oath, the rather because the triall hereof dependeth upon them, whereas those others are but to informe the Jurie towards an endowment only, insomuch as notwithstanding & examination so taken, yet the parties are bound to give the matter of them in evidence againe, *Vina voce*, when the triall shall be made.

Of Hearing(or Triall) by Certificat.

CAP. XII.

Befoze some other Judges, the Law hath allowed tryall by sundrie sorts of Certificat: as from the Kings Lieutenant, in the case of Escuage: from the Bishop, in the cases of Bastardie, Bigamie, Excommunication, &c. and in some other cases from other men: but befoze Justices of the peace, I haue not hitherto found any triall by Certificat, appointed by statute, but in this only case following.

If any man (being impeached vpon this statute of Armour, so; not hauing his appointed furniture) shall alledge that the same furniture so lacking, could not be conveniently provided for want of the same within the Realme: this shall be taken so; a good answer (in case it be true) but if it be denied or trauesed, issue shall be ioyned vpon it, and the triall shall be only by the Certificat to be made by the Lord Chancelor, Lord Treasurer, Lord President of the Councell, Lord Steward of the Kings house, Lord Priue Seale, Lord Admirall, and Lord Cham.

Chamberlaine of the said household, or by those of them, in writing vnder their Seales, 4 & 5 P. & M. c. 2. But this statute is now repealed by 1 Jac. c. 25.

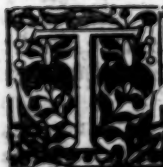
*Richards
bepers.*

As for the certificat of the offence, and of the Recognisance taken by two Iustices of the p. (one being of the Quorum) of him that has obstinately kept a common Alehouse against the statut 5. E. 6. c. 25. that is made a sufficient conviction of the same offence, without further triall thereof to bee had at the Sessions of the Peace: the which, and the rest of that sort, I therefore overpasse here.

Of Hearing (or Triall)

by Trauerse.

CAP. XIII.



The most solemnne and ancient triall of the fact against an offender; that wil not confesse it, is that which we see performed by the verdict of ryght and lawfull men of the countrey, and it also doth best content and quiet the guiltie man, so; that it passeth by his owne Countrey men, Neighbors, and Peeres, according to the ancient libertie of the Land, when unto enerie free borne man thinketh himselfe inheritable.

Ant

And thereupon it is named (in Mag. Chart. cap. 29.) *Legale iudicium parium suorum*, the lawfull iudgement of a mans owne Peeres, or Equals: because, as the Nobilitie, so also the Comminaltie are to be tryed, in treason, felony, or misprision of treason, not the one by the other, but each by men of their owne estate and calling: I meane by the word Nobilitie, as our own Law speaketh (which calleth none Noble under the degree of a Baron) and not as men of foreign Countries do use to speake, with whom every man of gentle birth is accounted Noble: so we daily see, that both gentlemen & knights do serve in the Parliament, as members of the Comminaltie.

Notwithstanding, in cases of forcible entrie, riot, rout, unlawfull assembly, or such like, they of the Nobilitie shall be tryed by ris. men, even as other inferior subiects, 3. & 4. P. & M. reported by Dalyson.

This triall happeneth before Iustices of the Peace, sometimes upon Trauerse, and sometimes upon Arraignment.

But yet, some things be common to them both: so, if the partie charged, will Demurre in Law upon the evidence, the Iustices ought to record his Demurrer: so, if he will plead (in Justification) any matter of Record that is before other Iustices, they ought to give him day to bring it in, Marr. So also, if the Iustices
(thinking

(thinking an Enditment to bee void) have discharged the prisoner, paying his fees: yet (upon change of their opinion) they may Ray him againe, at any time before Judgement; Fenz. Endict. 27.

But if he plead a pardon before them, in which certain persons be excepted, & the Kings Atturney is not present to loyne issue, that bee which pleadeth it, is one of those that be excepted, then they themselues may supply the office of the Atturney, in that behalfe, 8.E.4.7.

The Kings
advantage.

Wherupon also I gather this generall learning, That they ought not to suffer the King to be disadvantaged, where it lyeth lawfully in their power to prevent it.

And if an enditment be challenged, for such cause as these Just. will not allow, then may they seale a Bill of that exception for the party if he wil write & require it according to the statute W. 3. c. 30. as D. Marr. writeth.

The Trauerse take name of the French de Trauerse, which is none other then *de transuersus* in Latin, signifying, on the other side: because as the Enditment on the one side chargeth the partie, so he on the other side commeth in to discharge himselfe. For, whereas the arraignment proceedeth upon him & is unwillingly brought in by proces, the traaverse is (for the most part) freely tendered by the partie himselfe.

To traaverse an Enditment then, is to take
issue

that upon the chiefe matter thereof, which is **Traverse;**
 one other to say, then to make contradiction
 or to denie the point of the Endicement. As, in
 a presentment against A. for a highway over-
 taken with water for default of scowzing a
 ditch, which he and they (whose estate he hath
 in certain land there) haue bled to scowze or
 cleanse: A. may traaverse either the matter (viz.
 that there is no highway there) or that the ditch
 is sufficiently scowzed: or otherwise, he may
 traaverse the cause, viz. that he hath not that
 land, &c. or that he and they (whose estate, &c.)
 haue not bled to scowze the ditch, 5. H. 7. 3.

And this libertie of traaverse is commonly
 restrained to an Endicement of trespasses, con-
 tempts, riot's, &c. and other inferior offences,
 within the Commission or statutes, authori-
 sing the Iustices of Peace, and is not vsually
 extended to treasons, or felonies, as you shall
 hereafter see.

Sp. Brooke noteth, that it is not much bled **Traverse be-**
 to Traverse Endicements before Iustices of **foze Iustices**
 the Peace, but rather to remoue them into the **of the Peace.**
 Kings Bench, and to Traverse them there:
 Notwithstanding, common experience at this day can
 shew many Traverses before Iustices of the
 Peace also.

And there is no doubt, but that as Iustices
 of the Peace haue power to award Writelle,
 and the parties also haue libertie to speake for
 them

themselves: So (having spoken) the Justices may heare and determine of their speech, whether it touch them in scirehold or otherwise.

For although it be holden (1.R.3.11. 19.H. 8.11. & Fitz. tit. Ass. 442. and in other bookes) that a man shall not be received to traverse a Presentment, unless it doe charge him in his scirehold: yet Husley and Fairfax said (5.H.7.4) that a Presentment (not concerning scirehold) which is found before Justices of the Peace, may be traversed: and whether they meant of a Traverse in the Kings Bench, or before Justices of the Peace, it maketh no difference because the reason is all one, that is, If Procelle be awarded, the partie may come in, & offer his Traverse, and otherwise the Procelle should be in vaine.

Whereunto agreeth Moubray (41.Ed.2.36.) saying further, that in a Lett such a Presentment is not traversable, because out of a Lett no Procelle can be awarded upon it. And this peradventure is the reason of the booke (8.Ed.4.5. and of *W. Marrow*) where they say, that a Presentment of bloudshed found in the Sheriffs Turne, and sent (as it ought to be) to the Justices of the Peace, cannot be traversed before them: as whereupon they can neither make Procelle, nor discharge the parties by way of Plea.

So that this seemeth a generall learning, that

wheresoeuer any *Proces ad respondendum* hath out befoze such an Endowment as is tra-
uersable, there also the partie may offer, and
ought to haue his traaverse against it.

But Marr. saith, that if a man be of an En-
dowment that indicted him of trespass, or such like,
(that vpon the matter, he indicted himselfe)
his is so strong, that he shall neuer be receiued
to traaverse it.

It is not my meaning to pester this Booke
with Presidents: But yet, soasmuch as in the
way of one traaverse, there is at once discou-
ered, the stile of the Sessions, the Endowment,
the *Processe* to answer, the Traaverse it selfe,
the Verdict, and Iudgement thereupon, the
Writte of Execution, the yielding of the par-
ties, and the assesment of their fines: so that
it alone may serue in stead of all: I trust it shall
not be troublesome to insert it.

Alias scilicet ad Sessionem pacis, tentam apud
Bridgewater, in comitatu predicto die Mar-
ti proximo ante festum Sancti Mathaei Apostoli,
anno regni dominae nostrae Elizabethae Dei gratia,
Angliae, Franciae, & Hiberniae Reginae, fidei defensor-
is & vicissimo, Coram Iohanne Stowell Milite,
Henrico Waldron, uno Magistrorum Curiae
Cancellaria dictae Dominae Reginae, & alij socijs su-
is iudicarijs dictae Dominae Reginae ad pacem in co-
mitatu predicto conservandum. Necnon ad diuersas
causas, transgressionis, & alia malefacta in eodem
Comitatu

Somers.
Stile of the
Sessions.

comitatu perpetratis audienda et terminanda assignatis, per sacramentum xij. Iuratorum exiit presentatum, qd Ioh. Long de &c. R. M. de &c. & T. L. de &c. cum diceret alij ignotis malefactoribus, & pacis dicta domina regina perturbatoribus, modo guerrine armati, unitis & assemblatis, xx. die Iulij in nocte eiusdem diei, anno &c. & armis (videlicet) baculis, gladijs, clipeis, pugionibus, falcastris, et alijs armis, tam inuasivis, quam defensivis, apud C. &c. clausum cuiusdam W. Willet, (vocatū B.) illuc te, risto, & ronto se fuerunt, & intraverunt, & octo palustra fecerunt, ad valentiam &c. ad tunc et ibidem existentia, de bonis & cattallis dicti W. Willet ad tunc & ibidem iniuste & illicite ceperunt & appropriaverunt, contra pacē dicti dom. reg. &c. & contra formam statuti inde editi & provisū. Per qd preceptum fuit vicecomiti, qd non omitteret &c. quando venire faceret eos ad respondentum &c. Posteaque scz. pred. die Martis proxime ante festū S. Machi Apostoli anno xx. supradicto, coram prefat. iustic. venerunt predicti I. L. R. M. & T. L. in proprijs personis suis, & habito auditu indictmenti predicti separatim dicunt, qd ipsi non sunt inde culpabiles, Et de hoc ponunt se super parriam: Et Adam Muth qui pro dom. reg. in hac parte sequitur similiter &c. Ideo veniat inde Iurata coram iustic. dicta dom. Reg. ad pacem in comitatu predicto conservandam assignatis &c. ad Sessionem pacis apud Welles, &c. die Martis proxime post Epiphaniam domini tunc proxime futuro tenendā. Et qui &c. Ad record. Quia tunc &c. Idem dies datus est tam pref. Adam Muth.

Procede to
answer.

Trenche.

Iurte.

Day given.

Martin, qui sequitur & c. quam pref. I.L.R.M. & T.L. & c. Ad quas quidem Sessiones pacis tentas ad W. pred. in comitatu pred. die & c. Coram dom. P.G.N. & H.P. Milit. & fcijs suis Iusticiarijs dicta dom. reg. ad pacem in comitatu pred. conferendam, Necnon ad diuersa felonias, transgressiones & alia malefacta in eodem comitatu perpetrata audienda & terminanda assignatis, venerunt tam pref. I.L.R.M. qui sequitur & c. quam pref. I.L.R.M. & T.L. in proprijs personis suis, Et Iuratores pred. per vicecomitem comitatus pred. ad hoc impetratos, & exacti (viz.) I.F. gen. I.G. & c. similiter uenerunt, qui ad veritatem de premissis dicendam iurati & iurati, dicunt super sacramentum suum qd pred. I.L.R.M. & T.L. culpabiles sunt, & eorum quibet culpabilis est de transgressionibus, contemptu, & iuramento pred. superius specificatis modo & forma prout superius versus eos supponitur. Iste transsum est per Curiam qd pred. I.L.R.M. & T.L. capiuntur ad satisfaciendum dicta dom. reg. de finibus suis, occasione transgressionis, contemptus & iuramenti pred. Qui quidem I.L.R.M. & T.L. ad tunc & ibidem presentes in Curia petierunt se ad finem cum dicta dom. reg. occasione pred. admitti. Et misce ponunt se separatim in misericordiam D.R. Et assignatur finis eiusdem I.L. per Iustic. pred. ad xx l. viz. viz. Et finis eiusdem R.M. Assignatur ad xx l. Et assignatur finis eiusdem T.L. ad v. l. bone & leu. p. l. moneta Anglia, ad opus & usum dicta dom. reg.

Curia.

Judgement.

Capias p. fine.

Ponunt se in misericordiam regine. Fuit dilectio.

¶ in 2

And

Enditment
doyd.

And this is to be noted, that this Remo-
was afterward remoned vnto the kings bench
and that the partie was dismissed there, he
want of those words in the Enditment, that
you see vnderlined in other letters, in twospe-
ciall places of the same.

Of Triall vpon Arraignement, and
therewithall of the Triall of Felo-
nies, and what Pleas, or other
helpes may be vied
therein.

CAP. XIIII.

Difference
between tra-
uerse and ar-
raignment.



Arraignement and Trauerse doe not
so much differ in the nature (or sub-
stance) of the Triall it selfe, as in the
order or vsage of the same. For as
there is no Enditment trauersable by the par-
tie, but that he may also be arraigned vpon it:
so likewise is there no Enditment, wherupon
the partie may be arraigned, but that he may
also (if he will) tender his trauerse vnto it.

The difference then standeth in this, the
commonly he (which is to be arraigned) com-
meth in by compulsion of bond, or proccesse,
is touched with matter concerning life and
death.

...or some such hainous offence, and plead
generall Not guiltye to the Endicement.

Commonly I say, because although he come
lawfully, and be indicted of some inferiour of-
fence, yet he may be neuerthelesse arraigned :
either is he of necessitie driven to plead Not
guiltye (which runneth to the fact) but may (if
the case will suffer) plead a Justification, or
matter in Law, though it be in case of felonie.

It seemeth to haue borrowed the name out
of the word Array, either of the Pannel, or Ju-
ry: because he that is arraigned, must be tried
by them being first called, arraied, swoorne, and
tried, in order for that service: or else, of the ar-
ray of the prisoners, that be perused and arrai-
ed in order before they come to triall.

If I should here rip vp, and prosecute at full
(as the place offereth me occasion) the whole
learning that belongeth to the Arraignement,
and Triall of felons, as well for the taking of
Challenge, and pleading of Justification, mat-
ter in Law, pardou, an other time acquite, and
an other time attaint: as also for the hauing of
Warrant, and saving by Clergie: I should
but *illum agere*, and yet not doe it halfe so well
as you may find it in *Sp. Stanford*: besides the
which I should endeavour to teach them, of
whom I my selfe may better learn, seeing that
the vse of these matters is either reserved till
the comming of the graue Iustices of Gaole
or in 3 deliuey

delinetic, or else is performed by other men of Law that can informe themselves sufficiently therein. And considering that these things so many times fall in vse, and that it were verie seemely for Iustices of the Peace to be altogether ignorant therein, I will shortly run ouer them, if first I may offer to consideration a point or twaine, whereof it peculiarly becometh without Iustices to be aduertised,

*Felonies not
triable before
Iust. of the p.*

The first thing is, that there be sundrie felonies, and some Endiments of felonies also, the which (as it seemeth to me) Iustices of the Peace cannot heare, or trie at all: the second, that in the handling of those verie felonies wherewith they may deale, there be yet certaine considerations peculiar to the Iustices of the peace only, and not common to them without other Judges.

Of that first is the felony for forgerie by the statute made in the first yere of the reigne of the late Quene El. c. 14. after conuict. on his fornet offence.

Neither both the hearing and triall of the felonie of a seruant (taking the goods of his Master after his death) belong (as I haue said) to the Iustice of Peace in the Countrey: because they cannot take notice of his default in the Kings Bench, by which default it first becometh to be felonie, 23. H. 6. c. 1.

The like, though so; unlike reason, is to be
of the felonies in embzelling of any the
records of the courts at Westminster against
the statute 8. H. 6. c. 12. And of an accersaris in
one Countie, where the felonie was done in an
other countie, vpon the statute 1. & 3. E. 6. c. 2.
because the Iurisdiction ouer these felonies is
not committed to the Iustices of Peace, but
committed to other Judges by the verie same
statutes.

And so of the felonie of conspiring the death
of the King, or of any Lord of the Realme, or
of any of the Kings Counsell, or of the Stew-
ard, Treasurer, or Controuller of the R. house,
because, it is to be tryed by them of the Check-
roll of the same household, 3. H. 7. c. 14.

Furthermoze, they cannot make triall of
such as were indicted of felonie before the Co-
roners, or before the Iustices of gaole deliuey
or of Oyer and Terminer, if the same persons
were not Iustices of P. also in the same whice
so as the Endictments may be understood to be
taken by them, as before Iustices of the peace;
for their Commission and authority extendeth
only to such as stand endicted before them-
selues, as former Iustices of the Peace, or the
Sheriffs in his Turns.

Thus farre of the first point: Touching the
second, it seemeth by Mar. and Fick. fol. 16. that
albeit two Iustices of the Peace (the one of
them being of the Quorum) may heare and
trye

Things pe-
culiar to Just.
of the P. in the
triall of felo-
nies,

trye felonies : yet no Iustices of the Peace haue authoritie to deliuer felons by proclamation, or without sufficient acquittal : yet to deliuer such as be in prison for suspicion of felonye.

For they must proceed by inquiring, hearing and determining, as their commission appoynteth them, and not rid the Gaole other wise, as the Iustices of Gaole deliuerie may doe. And therefore such persons (if they cannot be indicted) must either remaine the comming of the Iustices of Gaole deliuerie, as the common maner now is, or else (being remoued into the Kings Bench) they are either to bee deliuered thence vpon the *Writ de ga. & fama*, as the old order was, or by such other meane, as they at this day doe vse therein.

These Iustices of Peace can take no appeal of any approuer, nor other, before them, say all the Iustices of the Common place, 2. H. 4. 17. and so it is clerely holden 9. H. 4. 1. because their Commission stretcheth not so farre, but only to such felonies as fall out by enquirie before themselves, or their former fellow Iustices, howsoever the Woke 44. E. 3. 44. vpon the statute 3. E. 3. c. 11. or the statute (8. H. 6. c. 10.) may seme (to a running Reader) to allow the power vnto them. And therefore W. Stanford fol. 95. worthily doubteth of this matter.

But howsoever that bee, yet seemeth it to

no lesse reasonable then seruiceable, that if
a felon wil accuse another befoze Just. of the
Pe. they may take his confession and reppie him
and therupon cause the other to be inquired of,
and so proceed against him.

Furthermore, they cannot arraigne a man
upon his aburration, saith Mar.

It hath also been thought vnmet, that they
should trie a felon the same day in which they
warded the *Venire facias*, against the *Iurie*
11. E. 4. 44. Fiez. tit. Coron. 44. but that hath no
necessitie, and the Law is now otherwise ta-
ken.

Mar. saith, that they cannot atward the writ
Venire facias for *matronas*, to try whether a wo-
man (arraigned befoze him) be with child or no:
but seeing it standeth with Law and reason to
say her for the time (that the child may be pre-
served) I cannot but doubt of his opinion.

They may giue Clergie to a felon, if the
Ordinarie (or his deputie) be present to take
him: but if they be absent, he must be reppied,
because (as Mar. saith) these Justices can let no
lie upon the ordinary for his absence: no more
then if he will accept one to read as a Clarke,
whers in truth he cannot read at all. But if you
looke upon *M. Stanford lib. 2. c. 25.* he will per-
suade you, that the ordinary is not the Judge
but a Minister in the triall of Clergie: and
that Clergie may lawfully be giuen, and al-
lowed in his absence.

Of the fine for his default at these Sessions I am a little doubtfull, as I have said before: but touching the allowance of Clergie to the offender, I see no cause at all why it may not belong to the Just. of peace, as well as to other Judges: seeing that they be Judges of the felonie, as other Just. are: and otherwise all men might be defeated of that privilege.

Marr saith also, that if Bigamy (that bigodly and Popish counterplea) had bene alledged against one that prayed his Clergie, the Just. of P. could not have written to the Ordinary to certifie the same. But let that passe, as not worth the debating.

And if a man (outlawed of felonie by process before the Justices of peace) be brought before them, and do alledge, that he was (at the time of the outlawrie pronounced) out of the Realme in the Kings service under such a Captain: or that he was then imprisoned in an other countie: they can neither write to the Captain, nor into the countie, by the opinion of Marr.

But I will acquaint your consideration with the statutes, 12. H. 8. c. 14 & 32. H. 8. c. 3 where you may reade to this effect, All manner of forein pleas (triable by the Countrey) hereafter to be pleaded by any person or persons, arraigned vpon any Endictment for any petty treason, murder, or felonie, shall forthwith be tryed before the same Justices before whom such

Such persons shall be arraigned, and by the same Justices of the same Countie that shall trie the said petty treason, murder, or felony, without any further respit or delay, in whatsover place of the Realm: the matter of the same pleas be supposed or alledged.

Thus much only of things restraining the Justices of Peace in the triall of felonies, wherein also they are not now aduates much occupied, the rather because they commonly defer it till the coming of the Justices of Assise, by reason that by Statute 1. & 2. & P. & M. c. 11. & 2. & 3. P. & M. c. 10. do inforce them to certifye at the next generall Gaole delivrie, both the examination and bonds that they shall take concerning felons and suspectes that are brought before them. Nevertheless their power is no whit restrained, so proceed before the coming of those Justices.

This I may adde (not as a restraint, but for an enlargement of the authority of Justices of the P.) that if they see cause, and doe write to the Clerke of the Crowne of the Kings Bench, for the names of any persons being otherwhere attainted of felonie by Attainre, or being Clerkes convicted or attainted: he ought (without delay, and under the paine of 11. s.) to certifye the same unto them, together with the causes of such attainre, or conviction, 34. Hen. 8. cap. 14.

These things thus premised, Let us now suppose

suppose all impediment to be remoued, and set
we the felon at the barre, ready to take what
sooner lawfull advantage of Challenge, Plea,
or other benefit, that may be allowed unto
him.

Challenge.

It was euer permitted, that the prisoner
might challenge so many of the Iurie as he
would (shewing lawfull cause for it) as namely
to say, that he (whom he challengeth) was one
of the Iurie which did indict him: for, such a
one it may be thought, that hee will not falsifie
his former oath, 1. 5. E. 3. cap. 3. or to say, that he
hath not lands of the clere yeerely value of xli.s.
for, such a one is disabled, 2. H. 5. ca. 3. except it
be in Cities, or such other franchises, where the
value is measured by xl. li. of good moueable,
23. H. 8. c. 13. or to say, that he is not *probus* or
legalis, because he hath been attainted of felony,
forgerie, perjurie, or of such like as are shewed
before.

The Common Law hath also (in fauour of
life) allowed unto the prisoner his peremptory
challenge, without shewing any cause at all
for it. But yet, soasmuch as it was long time
doubtfull how many he might challenge, the
same was put into certaintie (by the statute
12. H. 8. c. 14.) and restrained to the number of
xx. persons at the most.

Now if the triall be of an Alien boyme (for
felonie or murder committed by him) the Iu-
rie shall be *de medietate linguae*, that is, halfe of
our

the Nation, and halfe of strangers except it be
in the case of a Scot, whose Juris shall be also
either English, as well because he speaketh
our language, as also for that he is reputed a
subject and not an Alien, *Collection Dier*
104 & 357.

Thus shortly of Challenge, which is but a
trick, and to win time: and therefore let us
now heare what he may plead in chiefe as it
were, and for the safetie of his life.

If the prisoner have been at any time before *Another time*
lawfully acquitted of the selfe same Felonie, or acquit.
he has been orderly attain'd of any other Felo-
nie, he may safely rest upon it. For as it is un-
reasonable, to draw a mans life into double
danger for one single offence: So is it also un-
profitable, to condemne him that is already
attain'd, *Corone Fitzh. 132. & 27. E. 3. 90.*
And for the proove of either of these his allega-
tions, the Iustices ought to allow unto him
convenient time for the bringing in of the Re-
cord of the Court where he was so acquitted, or
attain'd, *Corone Fitz. 232.*

But because each of these two points hath
his severall consideration in that which both
remain, I also will henceforth handle them
apart.

If the prisoner be now arraigned of a felony
by the name of A. B. (by which name, as also
by the name of A. C. he is wel enough known)
then may he say that he was before time acqui-

ted

tes of the selfe same felonie, before such other
 Iudices, by the name of H. B. anetting that
 he is the same person, and that he is known by
 the one and the other calling, Lib. Ass. 26. pl.
 1; & 11. H. 4. 9. So, if he be arraigned of the
 murder of a man (supposed by the Enditement
 to be slaine in the thirtieth yere of Edward
 Elizabeths reigne) before time hee may plead,
 that hee was acquitted of the murder of the
 same man, anetting that he was slaine in some
 other yere, Lib. Ass. 12. pl. 55. For as in the
 former case, the same man may beare two
 names: so in the latter, one person cannot be
 twice killed.

But if the felon were first acquitted upon
 an enditement, which did not comprehend suf-
 ficient matter of felony in it: that will not help
 him now, because his life was never put in re-
 parde thereby, in so much as if hee had been
 found guiltie thereupon, yet the Court would
 have deliuered him, Scamford 1 c. 6. Notwith-
 the enditement had good matter in it selfe, then
 may no error (committed in the Processe) take
 the benefit of this plea from him, seeing that
 hee was arraigned upon the Enditement, and
 not upon the Processe, 9. H. 4. & Corone Fict.
 444.

Againe, if he that stole goods were acquitted
 in a Countie where he sought not to haue been
 tryed for them, that is no lawfull acquittall to
 saue him from tryall now: no more, then if a
 man

man

men were acquitted of murder in an Appeal at the suit of a younger brother during the life of the elder: that is of no such force, but that he shall be arraigned at the suit of the R. againe, Stanf. 105. & 106. & 1. H. 6. 31.

Lastly, he that is acquitted as principall to a felony, may neuertheless be arraigned as an Accessary (after the offence done) to the same felonie: because it is not the same, but another subsequent, and diuers offence. And yet shall he neuer be arraigned as an accessarie (before the offence) to the same felony: because, (as I haue said heretofore) the Accessaries before offence be the verie causes of the fact and do (as it were) inseparably concur with the principall and be present with him in the doing of the same, Lib. Ass. 17. pl. 10. & Stanf. 105.

Now on the other side, since nothing can be had of him that is already attainted, and hath thereby lost whatsoever he might forfeit, it hath alwaies bin thought meete to allow him to plead it: and it is to no purpose to arraigne him of new, for that or for any other felonie, except it be in a special case or two, for the benefit of other persons, which Mr. Sanford hath briefly noted for vs.

In other times
arraigned.

The first is for the aduantage of the king: For if he that is attainted of felony, hath also committed treason, then may he be arraigned of the treason, notwithstanding the former attaintment, to the end that his Heiress may haue his

his prerogative in the escheat of all his lands, of whatsoever other Lords they shall be holden 1. H. 6. 5. And yet if that treason were committed after the attainder for the felonie, then (in the opinion of W. Stant.) the title of Escheat (which by that attainder did accrete to the other Lords) cannot be denested and take from them, by the subsequent treason.

The second is, for the commodity of subjects as in case where divers men be robbed of their goods by a felon, there (though he be attainted at the suit of one) yet ought he also to be attainted at the suit of the rest: that each of them may thereby have restitution of his goods whereof otherwise for want of suit he should be denied, Stant. 165.

But now, if he that was thus attainted do afterward obtaine pardon of that felony whereof he was attainted, then is he restored to the Law, and is made answerable to all other felonies that were committed by him before the time of that felony, whereupon his attainder was grounded, 6. H. 4. 68.

And if a man do commit two sundry felonies and (being arraigned upon the one) standeth mute at the barre, and hath therefore his judgement to be pressed: yet may he be arraigned upon the other felony, notwithstanding the former judgement: because it is none attainder at all for his offence wherewith hee was charged, but onely a punishment inflicted by
the

to Law upon his contumacie and Stubborne
 ness, Collect. Dyer 308.

With this there was wont to be matched ^{Another time}
 a plea, That the prisoner was an other time comitt,
 comitt of felonie, and delivered to the Ord-
 inance to make his purgation: which also was of
 small force (with the former plea) to save him
 from new arraignment. But the Law of our
 time hath woorthily taken that plea from the
 offender, and the offender himselfe from the
 power of the Church.

For, as the allowance of the booke proceeded
 from the pride of Churchmen; Even so were
 these convicts ridiculously purged by them.
 Which cause the statute (18. El. cap. 6.) hath
 whereby, not onely that after allowance of
 Clergie and burning in the hand, the prisoner
 shall be enlarged: but also that he shall be put
 to answer to all the other felonies, whereof he
 is not before acquitted, convicted, attainted, or
 pardoned, and therefore, leaving it, let us see
 how the offender may be holpen by pleading,
 and paying allowance of the Kings pardon.

The pardon whereof the partie may have ^{General}
 advantage, is either General or Speciall: by pardon
 General, I doe here meane that which is gi-
 ven by Parliament to all men generally, or
 with the exception of some parties. And of this
 pardon the Court ought of duty to give allow-
 ance, though the partie neither plead it, nor
 An will

will accept the benefit of it. But if it make special exception of some persons, then must the prisoner allege, that he is none of those that be excepted unless the act itselfe doe say, that he shall be holpen by it without any such pleading, 1 L. H. 4 39 & Stat. 103.

Touching this sort of pardon, I will only lay downe these few cases: the servant that he killed his master, was indicted of voluntary murder, without the word *proditorie*, and was thereupon arraigned and found guilty. But because the offence was petite treason man, and petite treason was then pardoned by the Parliament (5. El.) though murder was not excepted, Justice Welsh thought it meet to reprieve the prisoner without giving judgment upon him, Coll. Dyer 235.

A man stroke another in Februarie (13. El.) whereof he dyed in June next following, in which meane while all felonies, offences, murders, and misdemeanors, were pardoned by Parliament, and he was discharged by the pardon, because the stroke was the offence against the person, and that was pardoned, though the death did afterwards come upon it, Comm. 401.

One that had committed manslaughter, was indicted of murder, and thereupon indicted: afterward the Parliament pardoned all offences, except persons vlawed or attainted.

of murder: the partie reuerfeth the blaime, is
and then is arraigned of manslaughter: and it
was much doubted whether he should be dis-
charged by the pardon, because the persons be-
trayed were excepted, whereas if the offences
only had been excepted, it would haue made no
great question, 29. Eliz. Report Crompton.

The speciall pardon ought to be pleaded vnder
the great Seale of England: for that au-
thority which some subjects in auncient time
had to grant pardon, is resumed by the statute
27. H. 8. c. 24.

Speciall
pardon]

And with this pardon, the partie ought to
bring a writ of allowance, testifying that he
hath found sureties for his good port, accord-
ing to the statute 10. Ed. 3. c. 2. Whosebeit that
matter is many times dispensed withall, by
names of a *Non obstante*, that may be put into
the pardon, Com. 502. But let vs yet see, what
the pardon hath within it.

If the pardon do agree with the Endite-
ment, as well in the name, surname, and ad-
dresse of the partie, as also in the point of the
offence that is to bee pardoned: then is there
nothing to be said against it. But if the par-
don be of all Felonies, that will not discharge
him of Petito Treason, nor Murder, at this
time (except it containe them in speciall words)
although before the statute 13. R. 2. Stat. 2. ca.
such a Pardon was auailable enough for
him.

Neither is such a pardon sufficient to save the life of him that is attainted of felony, unless it have words to pardon the attainder, execution, 9.E.4.29. no more then a pardon of that attainder and execution, will deliver him without words to pardon the felony it selfe, 8.H.4.21. So where the partie is abjured to the death of a man, the pardon must of necessity carie words of abjuration, Coron. Feich. 124.

And if the King doe pardon to a Gaoler the escaped of prisoners being in his ward for felony or treason, that shall extend to negligent escapes only, and to none other, Granes Fitz. 37. So if he pardon two men all felonies done by them, or any of them, that will not serve them apart, because the first words be joyned and not severall, whereas all felonies be of themselves severall, 22.E.4.7. For in all these, and the like cases howsoever the ratio of life may desire a verall interpretation: yet (so far as the offence is against Law) the grace and dispensation of the Prince may not be strayed beyond the words.

**Sanctuarie
and Clergie.**

The last helps for the prisoner, be Sanctuarie and Clergie, whereas his case will allow him the one or the other of them. For if he were taken out of Sanctuarie, he ought to be (at the first) to be restored: and if he can, he may (at any time) desire of the Judge the recovery of his booke.

Both each of these began at the first, & grew
in time to be full summer, & how they shooke
again, and how their greatest fetters were at
the last (by one and one) pulled from them: I
may not here stand to discourse, though it be a
piece, worthie both the handling and hearing.
But soasmuch as our statutes do many times
match these twaine together, I will likewise
waite them forth, as I shall fall vpon them,
shewing you where the one or the other, or
both be denied to the prisoner.

Where clergie lieth, it is grantable but once Once or more
times.
to one person, except he be within holy orders:
for such an one may haue it often, 4. H. 7. c. 13.

1. E. 6. c. 12. & Stat. 135.

Bigamus, (that is to say, he which hath bene Bigamia.
twice married, or which hath married a wi-
doe) may haue his Clergie at this day, though
in old time it were a good counterplea against
it, Collect. Dier 201.

It was wont to be doubted, whether a Ba- Bastard.
lard might haue the benefit of Clergie: he
canse he could not be a Priest without speciall
dispensation, Brooke Bastardie 46.

And it was agreed by all the Iustices (2. &
3. Phil. & Mar) that a woman shall haue none Woman.
allowance of Clergie: but she may haue (for
once only) the benefit of her belly, if it be found
by women thereto appointed that she is with
child, Report Dalison.

The retainers or aiders of Seminary priests Y. Jones, &c.

or Jesuits are to be denyed the fauor of clergie
27. El.c. 2.

witches, &c.

Committors of witches, their ayders or coun-
sellors, shall neither haue sanctuarie nor clergie
1. Jac. c. 12.

Rape, burgla-
rie.

We shall haue no clergie that committeth or
my felonious rape, ranshyment, or burglarie,
18. El.c. 6.

Whanshyment

For he which carnally & vnlawfully abuseth
any woman, bring within the age of 1. years,
18. El.c. 6.

Take away a
woman.

For he which is principall, or accessarie be-
fore, to the felonie of taking away of a maid,
widow or wife, that hath lands or substance, &c.
3. H. 7. c. 2. & 39. El.c. 9.

Buggerie.

For he which committeth the detestable sin
of buggerie, 24. H. 8. c. 6. & 5. El.c. 17.

Murder,
Hypsoning.

There shalbe no Clergie nor Sanctuarie for
him which committeth wilfull murder or pop-
soning, of malice prepensed: or which robbeth

Robbe in high
way.

an other in or nigh the highway: or which stea-
leth any horse or horses, gelding or geldings,

Waste.

mare or mares, or stealeth goods out of any
Church or Chappell, or which breaketh any

Church.
Houses.

house feloniously by day or night, any person
being in it: or which robbeth any person in any

part of his dwelling house, himselfe, his wife,
childzen or seruants, then being there, or with

in the precina thereof, and bring sleeping or
waking, 23. H. 8. cap. 13. 3. H. 8. c. 7. 1. E. 6. c. 12.

5. E. 6. c. 9. & 1. & 3. E. 6. c. 33. Or which robbeth
by

any to the value of v. s. or upwards, in any dwelling house, or out house, thereto used, though no person were then within it, 39. El. c. 15.

He is excluded from the benefit of Clergie, that stabbeth or thrusteth any person (having any weapon or stone, or that hath not then first stricken him) if the person so stabbed or thrust be thereof within the space of vij. months after 1. Jac. c. 8.

He which robbeth any person in any booth or tent, in any faire or market, the owner, his wife, children, or any servant then being therein, either sleeping or awake, is deprived of his Clergie, 1. E. 6. c. 12 & 3. E. 6. c. 9.

Such as maliciously command, or bid any to commit petit treason, or willfull murder, or robberie in any dwelling house, or in, or nere any highway, or without the Marches of England against Scotland: or willingly to burne any dwelling house, or any part thereof, or any barne having corne therein, shall not be admitted the Clergie, 4. & 5. P. & M. c. 4.

Clergie & Sanctuary be taken from the soldier that departeth without licence of the lieutenant or capitaine, 1. E. 6. c. 12 & 4. & 5. P. & M. cap. 3. The Clergie is taken from the soldier or mariner that wandreth begging, or shall exceed the time of his licence in his testimoniall, or forge any such testimoniall, or carie the same forged if he know it, 39. El. c. 17.

He that doth a Robberie or Burghlarie in

De that stabbeth
or thrusteth
any person

Robberie
or tent.

Command
murder or
robberie.

Burne house
or barne.

Soldier that
departeth

Carrie the
goods into an
other County

one countie, and is taken with the goods
robbed o2 stolen in another County, shall
his Clergie there, as hee should doe where the
robberie o2 burghlarie was committed 35. H.
8. ca. 3. & 5. E. 6. ca. 10.

Forgerie.

Sanctuary and Clergie be taken from him
that secondly shall bee convicted of the forging
of false deeds, &c. 5. Eliz. ca. 14.

Emptie.

He which privately taketh money o2 goods
(ouer the value of twelue pence) from the po-
son of another, not knowing it, is denied Cler-
gie, 18. Eliz. ca. 4.

Egyptian.

Clergie and Sanctuary be taken from him
which calleth himselfe Egyptian, o2 which ke-
peth them company against the statutes 1. &
2. Phil. & Mar. c. 4. & 5. Eliz. cap. 20.

Dangerous

Rogue.

Clergie is taken from the dangerous Rogue
that after he hath bene branded with a R. and
placed in labour, shall be taken begging
again, 1. 12. ca. 7.

3 Consider
enconching

Clergie.

In all other cases (so farre as I yet find) the
prisoner may enioy the priuiledge of Clergie:
yea and in euery of these statutes also that de-
termine Clergie, if so bee that the Endite-
ment doe not expressly mention the offence in the
orie words of the statute it selfe, the offender
may escape by his Clergie. For if the Endite-
ment bee, *Murdrum* onely, without saying,
Ex malitia premeditata: o2 if it be that he procu-
red a robberie in a dwelling house, without
adding maliciously: o2 that hee robbed one in
the

high way, and take ten shillings from his
pou, without shewing that he made Assault
upon him, or used violence unto him: or if it be
a Burglarie and do lacke the words Burgla-
rier: then (as 99, Stanford watily noteth) the
offence is not against the statute, and conse-
quently the benefit of Clergy is not pulled fro
the offender, Stanford 130. Collect. Dier 183.
124.

The same 99, Stanford (about the same place
of his booke moueth a doubt in this matter of
Clergie, very meete to be remembred here, and
to be resolved in another place. Whether sum-
me of these statutes which take away clergy
(in case where the offender is convicted by the
verdict of twelue men) do speake nothing at al
of his attainder by Writawie, or by Parlia-
ment, nor of his standing wilfully mute: nor
of his challenging above twenty peremptori-
lie: nor of his refusall to answer directly to the
offence: It is to be considered (saith he) whe-
ther in these cases also, the Clergy shall bee de-
nied unto him. But since it becometh not me
to determine, where he doubteth, I will heere
make an end of our trial, and proceede unto
Judgement.

3 script con-
cerning clergy

Of Iudgement.

CAP. XV.

The Iustices of Peace having the
 sitted and tryed the causes in hea-
 ring either by the evidence given
 to the Jury, or by the examination
 of witnesses, or by certificate allowed, or other
 lawfull, reasonable, & discrete wayes, are now
 come to make an end, & to determine of it. For
 I may well apply that to hearing and determi-
 ning, which Sir Bract requireth to the making
 up of a true iudgement, that is, An equall and
 indifferent acceptation of the persons: an ear-
 nest examination, & thorow search of the cause
 a true deliverie of the sentence: and a diligent
 execution of the same. Of these, the two last
 belong to hearing (or triall) which we have al-
 ready handled: and the latter two be the two
 parts of determining, wherewith we have now
 to deale. For Iudgement & execution doe make
 an end of the cause in controuersie,

You have read before, a generall learning in
 the Commission: I meane, that if any difficul-
 tie doe arise in determination vpon triall, the
 Iustices of P. are restrayned to proceede with
 iudg^t

ment: and you may reade 6. H. 7. 16, that
 in Cettiorari be brought to the Iustices of the
 peace, they are stayed (by the opinion of Keble)
 in determination, although the Record bee
 thereby remoued from thence.

But admitting that there is none imped-
 ment, let vs heare their iudgement.

The iudgements then of the Iustices of W. **Iudgements**
 in some cases arbitrarie (or referred to dis- **by discretion.**
 cretion) and in other some cases prescribed or
 limited. Of the first sort, take this one, or two
 shall.

He that is orderly convicted befoze them in **False tokens**
 their generall Sessions, of the deceitfull get-
 ting of any goods into his hands (by meanes of
 any false token, or counterfeited letter made in
 the name of any other) may be adiudged by the
 Iustices imprisonment, standing on the pillory
 or any other corporal paine, that they shall ap-
 point, except the paines of death, 33. H. 8. c. 1.

And that seruant, workeman, or labourer, **Servant.**
 that shall so willingly and maliciously make
 assault or affray vpon his master or mistres, or
 other that then shall haue charge ouer him, as
 that he shall deserue further punishment then
 the imprisonment of one whole yeere, may be
 put to such further open punishment (so as it
 extend not to life, nor limme) as the Iustices
 of Peace in open Sessions shall thinke conue-
 nient, 5. El. c. 4.

Their prescribed Iudgementses bee of
 sundrie

**Described
Iudgements.**

sundry formes, according to the natures of offences (whereof they haue to iudge) which diuers also.

For upon petite Treason committed by a man, the sentence ought to be, that he shall be drawne and hanged: But against a woman the iudgement is all one, whether it be in high or petite treason, that is to say, that she shall be drawne and burned, Stanf. 182.

Against Murder and other Felonies, they must pronounce the only vsuall iudgement, hanging till death, in both the sexes.

Upon such as be convicted of trespasses, contemptes, riots, and such other offences, whereupon no certaine forfeiture is laid by Statute, they must adiudge, that they be taken and ransomed, and so to satisfie the King for their offences by making their fines: and upon offenders against such penall lawes as doe inflict any certaine paine, they ought to adiudge as the Statutes themselves doe direct their course.

Forfeitting.

For, upon conviction of the first offence against the statute of forfeitting (4 E. 6. c. 14) they must award imprisonment for two monethes without Baile or Paineprise, and the forfeiture of the value of the goods so had: upon the second attainder (or conviction) imprisonment for sixe monthes, and the double value of the goods: and upon conviction of the third offence, they must give sentence that the

to be set on the pillorie, and to forfeit all his goods, and further to have imprisonment of his body during the kings pleasure.

The judgement of xx. l. forfeited, & to stand only on the pillorie all the Market time (of **Logwood** more daies) is also to be given upon him that useth Logwood contrarie to the Statute 30. El. cap. 11.

Against him that shall bring or procure to be brought into any ship, any kind of sheepe, being alive, to be conveyed out of any of the Kings dominions, they ought (so the first offence) to a iudge that hee shall lose all his goods to the King, and suffer imprisonment by the space of one whole yeere without baile or mainprise, and that at the yeeres end, hee shall (in the full market of some market towne) have his left hand stricken off, and nailed upon the openest place of such a market, 8. El. c. 3.

Against him that is convicted for the unlawfull taking or slaying of any Deere, or for such taking of any Hawke, or Eggs of Hawke (contrary to the Statute, 5. El. c. 21. & 3. Ia. c. 13.) they must aduise treble damages to the party grieved, three moneths imprisonment of the body of the offender, (and after that expired) to find sureties of his good behaviour for 7. yeeres after, or else to remaine in prison untill he shall finde such sureties during those seaven yeeres.

And upon Certificat made at the next quarter Sessions of the peate, by to Justices of the

Taking of Deere or Hawkes, &c.

Wichou.

the

the peace (the one of them being of the *Quorum*) against him that shall obstinately keep Alehouse, contrarie to the Statute (5. E. 6. c. 1.) the Iustices are to assess the fine of xx. s. to which I doe purposely rehearse, because they are there warranted to assess the fine, without process first made against the offender, unlike to the common order of assessing fines, as you shall see when I come to that matter.

It were more laborious then profitable, to run over all the divers Judgements that Statutes doe appoint, & it may suffice in this place to have given this taste of these, and therefore I will in hand with execution.

Of the Processe for the Fine of the King,
and of the assessing thereof: and of the
Extreating for the King.

CAP. XVI



Seeing that Execution is but a performance of the judgement I shall not need to make long enumeration of the sorts of executions which are within the power of the Iustices of peace. So; besides that by the knowledge of the

Neither is knowne also; the Iudices of the
 peace themselves haue in many cases per-
 ceived their dutie in both, when they haue in the
 promoued that which is due to the offen-
 der.

Notobest, so much as that which they are *Execution for*
 who by way of execution, offereth profit either *the King,*
 to the King, or to his subjects: and that which
 pertaineth to the king, is brought about, either
 immediately, first by proces (or imprisonment
 to the fine:) then by assessing of the fine: and
 lastly by extreating the same: or else immedi-
 ately by extreating the penaltie and forfeitures:
 I will first bestowe a few words upon the
 fine and Extreats for the King, and then
 speake of the benefit that belongeth to the
 subject.

Where the Comittion is for Trespases
 against the Peace, Riots, and such other con-
 tempts and offences against the Commission
 or Statutes, for the which no certaine fine is
 appointed: there (as you haue seene already)
 the Iudgement is, That the partie shall be ca-
 lled to satisfie the King for his fine: And there-
 upon, the Capias pro fine, and (if the parties can
 not be found) other Iudiciall proces goeth out
 till he be obtained: vntill it be in a vertue ser-
 ued, where (by the words of the Statutes
 themselves) they may proceed to assess the fine
 in the absence of the parties, without calling
 for it by any proces: so is it standeth in the
 Statute

statute of Alehouses, 5. E. 6. cap. 25. (as I have
you even now) and in the statute of highway
5. El. c. 13.

But if the partie be brought in, then is he
a prisoner, and then are the Justices of Peace
(by their discretion) to assess the fine, and to
execute it, and to deliver him.

For in no case (as I take it) can they of them-
selves lenie any fine or forfeiture, due to the King,
in so much as not they, but the Sheriffe is ac-
countant for all such matters.

Imprisonment: The imprisonment that I speake of, is not
to the end that the King may have the fine,
and therefore upon the payment thereof (or by
pledges found by Recognisance to pay it)
the offender ought to be delivered, 2. Mar. R.
Imprisonment 100.

Whereof also the fine take first his name,
the Latin Finis, because it maketh an end to
the King for the imprisonment laid upon the
offence committed against his Law.

**Difference
between fine
and amercia-
ment.**

And in that respect chiefly, doth it differ from
an amerciaement: For when the offender hath
not so deeply trespassed, that thereby it deserveth
any bodily punishment at all, as if he be
non-suitor in an action, or doe commit any such
like fault, he is said to fall into the Kings mer-
cie, because he is therein mercifully to be dealt
with.

And by the great Charter (cap. 14.) that
amerciaement and summe of money, which he is
to

for the same, ought to be afflicted and as-
sured by the good and lawfull men of the neigh-
bourhood, which also Glanvil lib. 9. c. 11. affir-
ms to have bene the Law of the Land long
before that time, saying, *Misericordia Domini*
est, quia quilibet per iuramentum legalium homi-
nis vicini, et ceteris amercandus est, ne aliquid
in honorabili contentamento amittat.

But where the offence or contempt falleth
out to be so great, that it asketh the imprison-
ment of the bodie it selfe, and that during the
same will and pleasure: then is the par-
tie to receive his libertie with some portion of mo-
ney, as he can best agree with the King, or his
Justices, for the same: which composition is
properly called his fine, or his ransome, and in
Latin Redemptio, as may bee plainly scene by
the statute of Marleb. 51. H. 3. cap. 1. 3. 3. & 4.
and by the statutes called Ragman, and divers
other ancient statutes. Where (by the way) it
cometh by the property of the word redemptio
that the partie offendor ought first to be impris-
oned, and then to be delivered (or ransomed)
in consideration of his fine.

And whereas any statute speaketh of fine &
ransome both (as 38. E. 3. c. 9. and others doe) it
is taken, that the ransome ought there to be at
the least treble so much as the fine, Coll. Dyer.,
12.

But now of latter time, the Justices them-
selves have in some cases of amerciaments also

used to assesse and rate the same without any other helpe : As where the Officers of the Courts haue offended, 33.H.6.54. 34.H.6.11 & Lo.5.E.4.5. which also seemeth to make no other difference betwixen the two wordes. But because neither of these be usually observed, either in common speech or in the understanding of the latter Statutes, I will no longer stand upon it.

Fines by discretion of the Justices.

Now therefore, if the offence be finable, by generall wordes only, without speaking of any fine, or without shewing by whom the fine shalbe assessed (soe so it is commonly in the other statutes that do prohibite any thing to be done) there the assessment thereof belongeth to the Justices befoze whome the conviction lawfully had.

Againe, if it be finable by these (or such like) wordes, At the Kings will, or At the Kings pleasure (as you shall find it in many statutes) then also the same Justices (befoze whome the conviction was) shall assesse the fines at their will and pleasures. For (say the Bookes 2.R.1.11 & 2.H.8.7.) the king (in all such cases) doth his owne will & pleasure, by the means of the Justices.

And yet some statutes (being plainer spoken) do namely refer the fine to the discretion of the Justices of peace.

Destroy the fry of fish.

For they may (upon conviction had by them) set fine by their discretion upon such

Salmons, as destroy the fry of fish in ri-
vers against the statutes, W. 2. cap. 47. 13. R.
1. 19. & 17. R. 2. ca. 9. And as this is said of
fishes, so sundrie statutes doe give the same
to the Justices of peace, in the execution
of the corporall punishment it selfe, as you
standis heard in the cause of counter-
feiting of false letters or tokens, and may read
the statutes at large. For, I labour to
be short, and therefore I give but an assay of
something, knowing that these Justices will
be moved to the execution of any statute,
without the sight of the statute it selfe, howso-
ever they should find it alleadged by me.

And in these cases (even as in cases of Amer-
cements) the Just. ought to take heed, that the
fine be reasonable and iust, having regard
to the quantity, of the trespassse, & to the causes
in which they be made, as it is commanded
in the statute 34. E. 3. cap. 1.

But this fine (or paine) awarded by the dis-
cretion of the Justices of W. shall do the more
benefit to the Prince in profit, to the people
in example, and to the Justices themselves in
reuerence, if it be pronounced at the bench openly
(as it ought to bee) & not thrust up in a cham-
ber (or cozier) secretly, as in some places it
hath bene used to be.

I have heard, that even in cases where the
Justices do appoint a certaine forfeiture (as in
the case of 7. li. 4c.) yet y^e practice is, to mitigate

fine to be at-
tended openly.

Mitigation of
the forfeiture
of all statute,

Do 2

the

the same by discretion, if so be that the party will come in upon the Enditement, and put himself in gratiam Regis (with, or without confession of the fault, as I haue told you before) so that the fine shall be small, where the fault was great, and the penalltie of the Law selfe not small.

But this manner of doing (in my mind) is void of sound reason, that I cannot receive it to the Iustices of Peace, but doe rather condemn it as a mockery of the Law. Yea, I see that sundrie Statutes (feearing belike some bad thing) haue specially prevented it, commanding that Iustices of the Peace shall assess lesse fine, then is in those Statutes themselves beforehand appointed.

Such is the statute 17.E.4.c.4. of Tithes: Statute 33.H.8.c.6. of Crossbowes and Gunnes: and the statute 5.E.6.c.25. concerning Alehouses: and such other may be found in the Bookes of Statutes be well perused.

And although it may seeme good husbandry to take such a fine by a manner of confession before conviction, rather then to hazard the loss of all the profit that may come to the R. the more (as indeed that must ensue, if no conviction be had) yet who seeth not, that the other way is much more seruiceable, and that this is but to looke through the fingers (as we say) and to strike or flap at a fault with a fore tailed, or any other.

But hitherto we haue not sufficiently perceived that, which the Commission of the Peace, in these words, *Saluis nobis amerciaments, et ad nos inde spectantibus*: and therefore, it was enough to haue assessed the fine, but we will also disclose the meanes by which, as well the fine (that is reduced to certaintie by the direction of the Iustices) as all other amerciaments, and those other penalties & forfeitures that are certainly pressed by words of the Statutes, may bee leuied and brought into the Kings coffers.

Order was taken by an ancient statute (intituled *de Scaccario*, and noted to be made 31. H. 4.) that all Iustices, Commissioners, and Officers whatsoeuer, should deliner into the Exchequer (at the Feast of S. Michael yerely) the records of fines and amerciaments, taxed and made befoze them, that the King might be fully answered therof. And the same (in effect) was afterwards confirmed by an other statute intituled, *De forma mittendi extreta ad Scaccarium*, which although it be said to be made 15. Ed. 1. yet so much as it mentioneth that the former statute was made in the time of the same of the same King which made the later, it will need be, that either the one or the other of them was in the time of King Ed. 1.

No doubt, but this ordinance doth extend to the Iustices of Peace as a man may easily gather by words in the statute of Labozers, 5. El.

cap. 4 and by the Act of Setewers, 13. El. c. 2. other statutes. But because it is verie good and hath nothing peculiar vnto them from the other Iustices, I will descend to lower times and looke there for merer helps.

The statute 12. R. 2. cap. 10. had alleuied the enerie of eight Iustices of the Peace, the day, for the time of their quarter Sessions to be paid (by the hands of the Sherife) of the fines and amerciaments comming of the Sessions. But because it was some after that it was a grant delay to the Iustices of Peace in this payment, to expect the leuies of these fines and amerciaments by the Sherife first sent vp to the Exchequer, and then deliuered thence to the Sherife (which was at that time the common maner of leuying fines and amerciaments) therefore it was within the yeres after (viz. 13. R. 2. c. 11.) provided, that the Writs of Iustices of Peace should be indented (or doubled) and the one part thereof deliuered by them to the Sherife, to the intent that he may leuie the money thereof rising, and pay the Iustices their wages by Indenture betwene him and them to be made, and the Barons of the Exchequer may charge and allow him vpon the making of his account accordingly.

And hereby (as I thinke) the Writs of the Iustices of the Peace bee now an immediate warrant for the Sherife, to leuie, not only the

and amerciaments, but also all other fines, penalties, losses, forfeitures, & summes whatsoever, arising before them: For the words of the statute are generall, The money thereof arising: and there, whatsoever summes are to be extracted into the Exchequer, the same are also to be levied by the Sheriffe.

Such order did the statute take (33. H. 8. c. 10. of the first weekes Sessions) for the levying aswell of fines and amerciaments, as of penalties, losses, and forfeitures of money: so did the statute of Tillage (2. & 3. Ph. & M. c. 3.) by way of admittance rehearse, the Justices of the peace may make out proces for the levying of the fines, and forfeitures before themselves: so both the statute of Cottages, 31. El. c. 7. appoint, and so are the Extreats made (for the most part) & the fine & forfeitures thereby levied at this present time, if I be not deceived.

And these are properly called Extreats, of the word *Extracta*, because they be short notes (or Remozials) extracted or drawn out of the records, by the Clerke of the peace, & by him indented & delivred sunderly to the Sheriffe, & to the Barons of the Exchequer, bearing this (or the like) title, *Extracti finium et amerciam. h. n. frisfactoru, ad generale Sessione pacis tenent. apud Maidston, &c. coram &c.* For the whole summe of the making whereof, there is full disposition given to all Clerkes of Extreats by the statute 7. H. 4. c. 3. wherunto I refer them.

Just. of the p.
ought to have
care of
Clerks.

Whosoever, I doe not thinke, that in our call
this dutie of esteeming is so peculiar to the
Clerks of the Peace, but that the Justices of
the Peace themselves, ought also to have a
common and carefull eye vnto it: For (if you
remember) it is both specially provided for in
the Commission, and also an Article of their
Oath, to see vnto the faithfull entrie and certi-
ficate of the Issues, fines, forfeits, and amercia-
ments, that do happen before them. And there-
fore it were well done (in my opinion) if the
Justices would, by Tymes (or otherwise) be-
take knowledge of things that haue passed be-
fore them, and also take order that the same be
certified accordingly: lest otherwise it lie alto-
gether in the power of the Clarke of the peace
to save or slay (as one said) the Sparrow that he
holdeth closed in his hands.

Of Executorie Procelle, and Execution,
for the parties that sue or for vther per-
sons : and of the restitution of
goods stolen.

CAP. XVII.

Albeit that the Iustices of the Peace,
haue this power to make warrant
for leuying the amercliaments, fines
and other forfeits, that grow vnto
the King by their seruike : yet is it commonly
thought, that they may not (but in some cases
only, and that by special speeche of the statutes)
make execution (either for him that will sue, or
for any other) of such part of the forfeiture, as
the Law doth affoord them.

For most commonly the party that will sue
is put to his action at the common law; for re-
couerie of that which he is to haue : as for his
moitie growing vpon conuiction of any offence
contrarie to the statute 13. Eliz. cap. 14. con-
cerning bringing ouer of Bowstaues, or con-
trarie to the statute of Mustres, 4. & 5. P. &
M. cap. 3. he is to commence his action (or bill)
of debt : and so of sundrie others that are each
way to be found. But where they haue pow-
er, either by their Commission, or by any sta-
tute

Bowstaues,
Mustres.

17 184 200 North Dock Execution
tute, to heare and determine any cause at the
suit of a private person, I doe not see how the
cause can well be said to be fully determined,
till the Complainant hath had the effect of his
suit, which cannot be without execution.

Foreshallers. Doubtlesse, by special provision, made in the
statute 5. E. 6. cap. 14. against Foreshallers, the
Justices of the Peace may make execution of
the one moiety of the forfeiture of him that su-
eth, by Fieri facias, or Capias, as the Kings Ju-
stices at Westminster use to doe.

Badgers, &c. The like power have they, for leaping the
moiety of any forfeiture against the statute
(made 5. Eliz. cap. 12.) concerning Badgers,
Drovers, &c. and their Licences.

Liveries. For the moiety growing to the Informer
upon the statute of Liveries (8. E. 4. c. 3.) they
shall make such execution, as ought to be had
in recovery of debt or trespass, at his own
pleasure.

Flare & Hemp. They may also award execution for the par-
tie that sueth upon the Statute of Flare and
Hemp, 24. H. 8. c. 4. by such process as to them
shall seeme by their discretion.

Highwaies. And the Offences (made by the Clarke of
the Peace) of forfeits for defaults of amending
high waies, are a sufficient warrant to the
Constables to levie the same by distresses, in
the use of the Churchwardens of the Parish
where the default was, toward the amend-
ment of the said waies, 1. & 3. P. & M. cap. 1.
& 5.

27. Eliz. cap. 13.

And likewise the **Executions** of the Justices of Peace (of any fines assessed by them upon presentments in the Sheriffs Turn) being inclosed, indented, and deliuered to the Sheriff, are a good warrant vnto him to leuie the same to the use of him that was Sheriff at the time of such presentments taken, 2. E. 6. c. 2.

So may J. of P. alward proces of Execution by leuying the forfeitures, vpon offences against the Statute 27. El. c. 7. of Fines lost by Juries.

So may they in like maner alward execution by Fieri facias, & Capias, of two third parts of the forfeitures (the one for the complainant, and the other for the poore) by the Stat. of Husbandrie and tillage, as the Just. at Westm. 21. to doe, 39. El. ca. 1. 1. 12. ca. 35.

So vpon the Statute of Perjury, 5. El. c. 9. vpon the Statute 5. E. 6. cap 4. for drawing of weapon to strike in Church or Churchyard. And peraduenture search will affoord you some more examples: but these may suffice for my desire, which is not (in this, or any the like) to recount all, but to make good proofe of what I offer and propound, the rather that the Justices and Clarke of the Peace, may thereby take occasion to looke vpon the Books, when soeuer Execution is prayed for any cause, depending before them vpon whatsoeuer Statute

And

Restitution of
goods stolen,

And because the awarding of restitution of goods stolen to the owner, or partie robbed (after the attainder of a felon by reason of the evidence given by them) is a manner of execution for the partie : I may without violence bring hither the effect of the statute made upon that point, and lying within the authoritie of Iustices of the Peace, which standeth thus. If any felon of goods, money, or cattels (taken from any of the Kings subjects) be indicted, arraigned, and found guiltie thereof, or otherwise attainted, by reason of evidence given by the partie robbed, or the owner of the said goods, money, or cattels, or by any other by their procurement : Then shall such partie or owner be restored thereunto : and the Iustices before whom such finding guiltie, or such attainder shall be (shall have power to award writs of Restitution therefore, 2 I. H. 8. c. 11.

Of

Of certifying the Records of the
Sessions of the Peace to other
Courts or Officers.

CAP. XVIIIL



As we haue already manifested,
Iustices of the Peace haue not
a sufficient and thorough power
(of themselves) to heare and de-
termine all causes, whereof they
haue in their Sessions authoritie to enquire:
As also be their sundrie things determinable
before them there, which neuertheless may (in
some respects) be brought to a second handling:
either to the end to reverse that which they
haue done, or that their doings may be an evi-
dence and testimonie in the triall of causes
before other Iudges.

And because this cannot in any sort be per-
formed, without the presence of those former
Records (or the transcripts thereof) which be-
gan with the Iustices of the Peace: it is there-
fore requisite, that they doe make certifi-
cat of them vnto those other Courts, or officers that
shall be interested to vse the same.

But as this Certificat ought in some cases
to be made by the Iustices of Peace (or their
Clarks)

Clarke) without any writ of Certiorari there
fore directed: & in some other cases they may
spare to certifie, until that writ (as some other
commandement) be brought unto them: & so
also sometimes they are to certifie and send
by onely a Tenor (as Transcript) as I said, of
the Record before them: and sometimes the
verbo Record it selfe must be conveyed from
them.

**Certificatio
out the writ
of Certiorari.**

The Clarke of the Peace must (under the
paine of fortye shillings) certifie into 4 Kings
Bench, a true Transcript of every Attainder,
Utlawrie, & Conuiction (had before Justices
of the P. in any place, except Wales, Chester,
Lancaster, & Durham) within fortye daies af-
ter, if it be then Terme: & if not, then within
twentye daies after the beginning of the next
Terme: that the same may there also appear
of record to be used upon cause, as that Statute
hath appointed.

And he must also deliver to the Ordinarie, &
Transcript of Clerkes convicted or attainted,
before the said Justices, 34. Hen. 8. cap. 14.
But enquire Whether this last bee needful at
this day, by reason that Clerkes be not now de-
livered to the Ordinary, by the Stat. 18. El. c. 7.

And if a principall be attainted of murder,
or felonie, in one County, to whom into another
is necessarie in any other Countie: then upon
writing from the Justices of Gaole delivery,
of Dyer and Terminer, to the Custos Rotulo-
rum

(where such principall is attainted) bes
certifie in writing under his Seale to 4
Justices, whether such principall has at-
tainted, or otherwise discharged, or not: that
they may proceed thereupon to the triall of the
felonie, 1. Ed. 6. ca. 14.

But in cases where Justices of the Peace
have power to receive Enditelements, and no
power to proceed any further upon them
whereof you have already the examples in 4
last Chapter of this present Booke) there
they ought to send by and certifie the Endite-
lements themselves, and that of dutie (as
I thinke) without any Certiorari comman-
ding the same: because having none autho-
rity to heare and trie the offences, the Re-
cords thereof shall be unprofitable before
them: and therefore they can have no iust
cause to retaine them, and yet (for the more
suretie) it is specially commanded (by 5.
Elizab. cap. 1.) that they shall certifie the pre-
sentments of some offences against that Statute.

And so if a man bound to keepe the peace do
make default of apparance at the next Quar-
ter Sessions, the Recognisance it selfe (toge-
ther with the record of that default) must be
certified into the Chancery, R. Bench, or Ex-
chequer, that Execution upon the Recogni-
sance may be had there, 3. H. 7. cap. 1. and so
ought it (as I thinke) if it be presented, & the
partie

partie hath forfeited his Recognisance
breach of the Peace: And likewise, if it be
presented before them, that the chattels of a man
attainted of felony, be in the hands of another.
For, in these and such other cases, where they
cannot of themselves proceed, they ought to
send the Records to such as have authority to
determine upon them: and otherwise they do
not discharge that dutie, which the words
Salvis &c. Et alijs ad nos inde spectantibus, in the
Commission do seeme to expect at their hands.
The abjuration of a seditious Person, being
made in the open quarter Sessions of the peace
ought to be certified from thence to the Justices
of Assize at the next Assizes, 35. E. c. 1.

Abjuration.

Furthermore, the Statute of Purveyance
(2 & 3. P. & M. c. 6.) doth appoint the Justices
of the Peace, to certifye to the Treasurer of the
Kings household, the Dockets of Purveyance
(brought to their Sessions by Constables)
that the serving of such Commissions, and the
true answering of Purveyances may be the
better examined thereby: and although it may
be doubted, whether these be Records, or no,
yet so; y they are to be certified from the Justices
of the Peace, I sticke not to assigne them this
place. And if you will also repute in this num-
ber, the licences (and such other acts of that
kind) which passe at the Sessions of the Peace
I will not be against it.

Touching

Touching the Certiorari, it is of force (if it be made accordingly) to remove not only En-
dowments, or other executoyie Records, where
the Justices of Peace can goe no further,
(as whereof I have spoken already) but also
the Records of causes fully and lawfully heard
and determined by them, to the end that they
may bee reversed and annulled in the Kings
Court, if good matter and cause do require it.

For that preheminance hath the R. Bench,
you may see by proofe: yea, all other the
lower Courts may write to the Justices of
Peace, to certifie their Records that doe make
up the tryall of causes hanging in them, as
you may read 19. H. 6. 19. where they of the
Common place did send to the Justices of peace
by an Endowment, because in a Writ of Con-
science (brought before them) it was material
whence it.

And yet neither they of the Common place
nor R. bench, doe use to write for Endowments
or such other records, unless they be therunto
moved, by cause hanging in their own courts
before them: For otherwise the right way to
remove them is by Certiorari out of the Chan-
cellors Court, whence they may be transferred (by
Mandamus) to any other Court, 41. li. Aff. pl. 2.
Kings chiefe Justice.

Wherbeit a man may gather upon the books
(1. R. 3. 4.) that if any Record be sent up with-

out warrant to such a higher Court, they may there proceed upon it: because it is thereby made a Record in that Court: and that Court is the Court of the king, as well as the other.

Of the generall (or quarter)
Sessions of the Peace.

CAP. XIX.



We have hitherto labored, and at length runne over, sundrie things which (in the opinion of some may be common to all Sessions of the Peace: And yet, because there be also certain matters (as it seemeth to me) appropriate some to any, and others to some one, of the generall Sessions: It remaineth that we now distinguish the Sessions of the Peace, & enter into consideration what is a generall, & what a speciall Session.

The generall
Sessions.

The generall Sessions of the peace be those which are provided for the generall execution of the authoritie of the Iustices of peace, whether you respect the limits of the peace, within their commission, or the bounds of power proceeding from the Commission & statutes. At these Sessions (as saith H. Fitzh.) generall

all things ought to be giuen in charge that doe
within the authoritie of these Iustices to
be determined.

These be moreouer called the quarter Sessions
because they be holden quarterly iij. times
in the yere: and the statute (4. H. 7. c. 12) tear-
med them principall Sessions, for that in them
chiefly the power of Iustices of the peace doth
shew and shew it selfe: in which respect 27. El.
c. 19. and some other statutes do giue them the
name of open Sessions also.

But we shall not neede to dwell vpon the
names, whereof there can be no great contro-
uersies, seeing that they all doe aime at one
mark: yea rather because these generall Sessions
be at this day diuersly summoned, begun,
and continued in diuers parts of the Realme,
it lyeth fitly in my way, to make examination
of that diuersitie in this doing.

For (to begin with the summons) the manner
(in some Shires) to summon yereley six stan-
ding Sessions of the Peace: in others vij. in
others xij. or xviij. and in others otherwise. All
which is done, chiefly vpon pretence to ease the
inhabitants of the countie, for whom it would
be verie painfull to tranell so often &
farre from all parts of the Shire to any one
place of the same.

And therefore such as doe mainteyne viij. or
xij. Sessions, doe vse to summon all the whole
Shire to a couple of them, & to the residue they

How many
Sessions.

call onely such parts of the Shire, as they doe there specially appoint: but yet so, that (upon the reckoning) each corner of the Countrey giveth attendance at foure severall Sessions: which also falleth out accordingly in those Shires where they have twelue or fiftene Sessions.

For, albeit that they do not at any one time summon the Shire to any one place (as the others doe) yet deviding their Shire into three or foure parts, and keeping foure severall Sessions in each of those parts, they also (as well as the other) doe serve their whole Countrey with foure sundrie Sittings. And therefore (in mine opinion) although none of these doe follow the precise letter of the Law (which requireth but onely foure quarter Sessions in any Shire) yet euerie of them dralweth neere to the true meaning of the Law, which looketh for nothing else, but that the Court of these Sessions should yeerely be foure times opened for the whole Countie.

But if there be any that doe (for this purpose) deuide their Shires into halles, and doe hold only foure Sessions in the yere, that is to say, two in the one part, and two in the other, calling the one halfe of their Hundreds to those two Sessions at the one place, and the other halfe to the other two Sessions holden at the other place: these men (as some haue thought) doe neither retaine the letter, nor attaine the meaning

meaning of the Law, in this doing. For upon the matter, no part of their Shire hath any more then two Sessions: which manner who seeth not how much it may hinder justice.

I remember I have read, that amongst other the desires of those that accompanied Icke Cade to Blacke heath in Kent, this was one: that (for saving of labour) the Quarter Sessions might be holden in two severall places of that Shire: and it is verie likely, that thereupon the same were first kept interchangeably, at two sundrie Townes. But howsoever for the time it was thought good in a sort to yield to that impossibilitie of the common people: yet can there no good reason be rendered, that the Sessions should now be continued in the manner as they are.

For, if any will seeke to salve it in saying, they doe call the Constables of the whole Shire to querie of those Sessions, yet they cannot so escape: because both reason it selfe, and their own experience herein doth informe them, that it is likely they shall haue many presentments where more persons (that can present of their own knowledge) be assembled, and doe take the charge upon them.

Besides all which, those men doe not bring sale, but trauell and delay to their Countrey, men: whom (by this meanes) they do compell either to goe far (out of one part into an other) to haue a fault punished, or else to tarry for

helpe till a Sessions shall be kept in that quarter were they inhabite.

Neither may I welcomit, that this doing may breed danger to the Iustices themselves, whilest any of them (having taken a Recognisance of a Tipler) doth not certifie it untill the Sessions happen to be in his owne part, and in the meane season, the next Sessions of the peace (within the Shire) chanceth to be holden in the other part: whereof what may follow, the statute 5.E.6.c.25. will tell you, and teach them. And like fault is it (though not like sayd) so to retaine a Recognisance taken for the Peace, as you may see by the Statute, 3.H.7. cap. 1.

The times of
holding the
quarter
Sessions;

Thus much of the summons (or number) of the quarter Sessions: now followeth the time in which they ought to bee holden: about the which also all counties doe not agree: & therefore it shall be good (before other things) to peruse those statutes, which doe (either in direct or indirect) concerne this point.

The statute 25.Ed.3.cap.8. ordeyned thus: Item, that the said Iustices make their Sessions in all the Counties of England, at the least four times in the yeere, viz.

{ The Annunciation of our Lady.
At { S. Margarer.
 S. Michael, and
 S. Nicholas.

The statute 36.E.3.cap.12. said, That the Commission of the Peace shall make mention that the Sessions shall be holden thus.

{ Within the Vras of the Epiphanie.
Within the second weeke of Lent.
Betwene Pentecost and Midsummer.
Within the Vras of S. Michael.

The statute 11.R.2.c.10. doth afterward set the matter at libertie, saying, They shall hold their Sessions in everie quarter of the yere at the least. But they of Middlesex be excepted by 14.H.6.c.4.

Lastly, the statute 1.H.5.cap.4. doth reduce the times to certaintie againe, saying thus:

Over all the Realme the Sessions shall be,

In the first	{	S. Michael.
weeke		The Epiphanie.
after		The clause of Easter.
		The translation of S. Thomas the Martire.

The first of these foure statutes doth (in theiv and in common opinion) concern the Sessions of the Iustices of Peace, but in truth it belongeth not at all to them: so; it was made to direct the Iustices of Labourers in the times of

holding their Sessions: & they were not commissioners of the peace, but especially Justices for the causes of Laborers alone, not resident in the Countrey, but sent downe for the time of that seruice, as it may expressly appeare, not only by the preamble and all the parts of the said Statute it selfe, but also by the Statutes, 18 E. 3. cap. 9. 31 E. 3. cap. 6. & 34 E. 3. c. 11. During all which time also, the Wardens of the Peace were neither called Justices by any Statute, nor authorized to deale with Laborers, for in 34 E. 3. c. 1. they are called Wardens, and the first name of Justices of the Peace by any Statute that I haue seene, is found 16 E. 3. c. 12. before mentioned, where it is said thus In the Commissions of Iustices of the Peace, and of Laborers, expresse mention shall be made, that they shall hold their Sessions, &c. as before. And as for the authoritie ouer Laborers, that was first appointed to Justices of the Peace, by the Statute 42 E. 3. c. 6. in the iiij. chapter of which said Statute, there were certaine Commissions disliked (of which, I beleue, that of the Just. of Labourers was one) and order taken, that from thenceforth some of the Justices of the one Bench, or other, or Justices of Assise, as Justices of Peace, with other of the most worthy of the countrey, should be named in all commissions of enquire: so that we haue not heere to do with the Statute 25 E. 3. c. 8. & may therefore proceed to examin the rest that doe follow.

The

The next is the Statute, 36. Ed. 3. cap. 12. But neither that maketh any Law for holding the Sessions of the Peace at this day, as well because it was set at large by 12. Ric. 2. cap. 10. as also (if it were not) because the Commissioners of our time be no such mentign as it commands.

Then come we to 2. H. 5. c. 4. which restrayneth the libertie of 12. R. 2. c. 10. and reduceth the times of these Sessions to certaintie again: and yet so, that the one of these Statutes doth not fret the other: for the latter is an exposition of the former, so that it is all one as if they both had been but one Law, & should have said: That the Iustices of Peace shall hold their Sessions in euery quarter of the yeere at the least, namely in the first weeke after *S. Michael*, in the first weeke after the Epiphanie, &c.

Now to proue that the quarter Sessions of the Peace, were or ought to be holden after the prescript of this statute, 2. H. 5. c. 4. vntill the time of the statute, 5. El. c. 4. these be my warrant.

First, *Spasser Marrow* saith plainly, that in his daies the Quarter Sessions were so holden.

Secondly, so far as much as their can bee no higher authoritie of exposition, then to construe one statute by an other, I will shew you some Statutes also that haue accounted of

of these Sessions to be holden accordingly.

At the generall Sessions, after the feast of S. Michael, the Custos Rotulorum, or (in his absence) the eldest of the Quorum, ought to appoint two Justices of the Peace for the oversight and controlement of the Sherifes, and their Clarkes, &c. by the statute, 11. H. 7. c. 13.

And at the generall Sessions holden at Michaelmas, the Justices of Peace ought to appoint Searchers for Wasse and Peter, by the statutes, 19. H. 7. cap. 6. & 4. H. 8. cap. 7. where the word (At) must of necessitie be understood or (After) whether you will take it according to the said statute, 2. Henr. 5. cap. 4. which saith plainly (After) or according to 36 E. 3. 12. which saith, Within the Vras of S. Michael, seeing that the Vras (as everie man knoweth) is alwaies after the feast, and not before it.

But (to prove two at once) whereas the statute, 27. H. 8. c. 5. had taken order for Justices of the Peace to be made in Cheshire, and certaine other Shires, and had willed that they should be sworn to the keeping of their Sessions of the Peace, &c. as other Justices of the peace, in other the Counties of England were, it fell out, that the Gentlemen & Freeholders of the County of Cheshire where much troubled by attending yearly, both at the said four Quarter Sessions, and also at eight or nine County

Countie Courts which they had besides, and whereupon it was provided by another statute 21. H. 8. c. 43. that the administration of justice (before time used in the said Countie Courts) should from thenceforth be done and executed at two times in the yeere onely, that is to say, at the Sessions next after the Feast of S. Michael, and at the Sessions next after Easter yearly for ever.

I might adde that the quarter Sessions in the weeke next after the Clause of Easter, was tied to the Tuesday of that weeke, by the statute, 33. H. 8. c. 10. And that it was not without some graine consideration, that the statute 21. H. 8. c. 4. did command the Sessions of the W. to be holden over all England, in one and the same weeke: but I think it clearly enough proved, that hitherto the quarter Sessions ought to be directed by that statute: and therefore I will descend to the statute 5. El. c. 4. and weigh the time in which they ought to bee holden at this verie day.

The words of that statute be these: As much of all the Statutes heretofore made and euery branch of them, as touch or concern the hyring, keeping, departing, working, wages, or order of Seruants, Workmen, Artificers, Apprentices, or Labourers, or any of them, and penalties, and forfeitures concerning the same, shall be repealed, and vtterly void, and of none effect: And that all the said Statutes, & euery branch thereof,
for

for any matter conteyned in them, and not repealed by this Statute, shall remain and be in full force and effect, any thing in this Statute to the contrarie notwithstanding.

Upon this Statute some have thought, that the said Statute, 2.H.5.c.4. is repealed concerning the branch of the Sessions: and others do thinke the contrarie: and therefore let vs hold the beame, and put in ballance their reasons on either side.

They of the one side doe alleage, that this branch of the Sessions lyeth in the midst of the Statute (2.H.5.) which was made for Labourers, and that it was onely meant of Sessions to be holden for the order of Labourers, and so is within the words of repeale.

And they say also, that it will fall out unreasonably, to hold the Sessions (especially that after Michaelmas) according to this Statute, because the same happeneth verie nere to that Terme of S. Michael, whereat the presence of many of these Justices is no lesse requisite then at the Sessions of the Peace.

They on the other side, doe gather upon the said words of 5.El.c.4 that some parts of the Statutes of Labourers must needs remaine in force, notwithstanding these words of repeale: for otherwise (say they) the makers of 5. Eliz. might (with lesse laboꝝ of speech) have repealed them all at once.

And therefore they say, that two Statutes of Labourers

Justices (viz. 12. R. 2. c. 9. & 17. H. 6. c. 13.) be
 in force for so much of them as doth con-
 cern Justices: and likewise, that so much of
 this statute, 1. H. 5. c. 4. as doth concerne the
 assise of those Justices of the Peace which
 is named of the Quorum, and the holding of
 the Quarter Sessions, is unrepealed also: for
 that they concerne not the hiring, keeping &c.
 of servants &c. (which might be done
 without the Sessions of the Peace) but the ge-
 nerall service of the Commission and statutes
 that do authorize the Justices of Peace, wher-
 of also these Sessions be called the Sessions of
 the Peace.

And it is not new (in their opinions) to find
 a generall ordinance in a particular statute: as
 in the statute 38. H. 8. c. 39. made specially for
 the creation of the Court of Wards, there is
 a generall Law, that all Obligations concer-
 ning the Kings commodities, shall be made to
 himselfe by the words Domino regi &c.

Neither was there ever (say they) any quar-
 ter Sessions holden (only for the causes of La-
 zers) by the Justices of Peace, although the
 petit Sessions of Constables were chiefly bent
 to that service.

And that the said statute 1. H. 5. did mean
 the verie Sessions of the Peace, and no other,
 they offer to proove by the authoritie of those
 selfe same statutes, which be alleaged already
 for the holding of the quarter Sessions, un-
 till

till the time of this Act of *Quene Elizabeth*, so; that they haue heretofore so construed and taken the statute.

But to make the proofe full, they adde, that euen this same statute of repeal, 5 *El.c.4.* doth in a certaine place thereof speake of the quarter Sessions to be holden after Easter, which cannot be vnderstood of any other of those statutes concerning the Sessions, but onely of 2.*H.5.c.4.* because the rest (that haue certaintie) doe appoint that Session, either at the Annunciation of the blessed Virgine, or in the second weeke of Lent: And likewise that the statutes, 8.*El.c.9.* concerning the prizes of vessels of *Dope*, *Ale*, and *Ware*, and 14.*El. cap.3.* and 18.*Eliz. cap.3.* concerning *Woye* people, and *Wagabonds*, haue mention of the quarter Sessions, to be holden next after Easter: which statutes as they make not (in this point) a new law, but be grounded vpon former law, supposed to be in force: So allowing of any one of these foure Sessions, they doe therein give allowance of all the other three also.

For answer to the obiection, of the nearness of the *Michaelmas* Sessions, to the *Michaelmas Terme*, they say, that this was foresaid to the makers of this statute, 2.*H.5.* who doe therein dispence with the absence of the Iustices of the Benches at *Westminster*, the Barons of the *Eschequer*, &c. And yet, to the end, that

that they also might once in the yere be present
at a Sessions of the Peace (for the better
direction of that service) the statute 33.H.8.
cap. 10. did specially appoint, that the Easter
Sessions, should bee holden yearly upon the
Tuesday next after Low-Sunday, in everie
shire of the Realme.

Now, if it shall seeme to any man a strange
thing, that I move question of the time of hol-
ding these Sessions: I let him know, first, that
it is one of the Articles of the Oath, ministered
to the Justices of peace, That they should hold
their Sessions after the forme of Statutes thereof
made.

Secondly, that the Articles of many Sta-
tutes are inquirable (as it may seeme) onely at
the quarter Sessions: because they are not in
the Commission at all, and the statutes them-
selves doe appoint of none other enquire touching
them, but at the quarter Sessions alone:
and then, if the Justices of peace doe not hold
their quarter Sessions according to the limits
appointed by the law, they be no Quarter, but
Speciall Sessions, and consequently, such Sta-
tutes shall either not be inquired of at all, or
be inquired of without warrant, both which
be verie great inconveniences: So, that this
matter (if it be not rightly conceined) tendeth
both to the hurt of the conscience, & to the hin-
drance of this service. And therefore it is to be
wished.

that as the oath of the Iustices of peace is one over all, and the service ought sachieverall be alike: So it might be made knowne, whether by declaration of these old Lawes, or by ordaining of one new what ought to be uniformly done and followed in this behalfe.

*How long the
Quarter
Sessions shal
continue.*

Touching the continuance of these Quarter Sessions, I have shortly but this one thing to say: that almost two hundred yeres agoe, it was ordained by statute (12.R.2.c.10.) that they should bee continued three daies together (if neede were) vpon paine of punishment: And yet in these daies of ours, wherein the affaires of the Sessions be exceedingly increased (and consequently, more neede to prolong them now, then before) many doe scanty affoord them thre whole houres, besides the time which is spent in calling of the Country and giuing of the charge.

*Things referred to the
Quarter
Sessions.*

But now it is more then time that I descend to some of these statutes, which do specially relie vpon the Quarter Sessions: & therefore I will first begin with such as haue reference indifferently to any of them.

The Iustices of Peace may in their open Quarter Sessions enquire of, heare, and determine, all offences (except treason, and misprision of treason) committed against the Law made 23. ELc.1.) for retaining the Kings subjects in their due obedience.

They may also in their open quarter Deny, Pope.
an inquirie of such as doe extoll the usurped
authoritie of the See of Rome against the Sta-
tute, 5. Eliz. cap. 1. And the Clarke of the peace
will read that Act at everie of the quarter he read:
Sessions.

All the Articles mentioned in the Statute Execution of (g). H. 8. c. 10.) shall be inquired of, and reſolved, Statutes, and by the Juſtices of Peace in their ancient Quarter Sessions, 37. H. 8. c. 7.

They may in their generall Sessions deter-
mine of the offences of killing & selling ^{Swainlings} Swain-
lings under two yeeres of age, 24. H. 8. c. 9. 13.
H. 15. & 27. El. c. 11. and of the offences of not ^{spitch hinc} spitch hinc
hoping milch kine & Calves, 2 & 3. P. & M. c. ^{and Calves.}
10. 13. El. c. 25.

The enquire, hearing, and determination of *Appellations*.
of *Appellations*, *Ingrossings*, & *Registrations*,
may be at the quarter Sessions, s. E. 6. ca. 14.

The enquire, whether Alehouse keepers Bichouse
have forfeited their Recognisances, ought to
be at the quarter Sessions, 9.E.6.c.25.

The fine for wilful hunting by night, or hunting with painted faces, shall be set at the next general Sessions, 1. H. 7. c. 7.

If the parties bound to his god Abearing Unlawfull
 many years according to the Act made 3. Jac. hunting,
 and unlawfull hunting, and stealing of
 Hares or Conies, doe within the same time be-
 fore the Justices of the Peace of the Countie

where the offence was committed, or some of them in the open quarter Sessions, acknowledge his offence, and that he is sozies therof, and satisfie the partie grieved according to this Act: The same Iustices in the same open Sessions, or in any other, may discharge the Recognisance and bond so taken, and the partie bound, 3. Iac. c. 13.

Felants, &c.

Iustices of Peace in their generall quarter Sessions, haue authoritie to examine, heare, punish and determine, all offences committed against the Statute made 1. Iac. for the preservation of the game of Felants, and Partridges, and against destroying of Hares. And licence may be given in the quarter Sessions to shoot haile shot in a Handgunne at Crows, Thoughes, Wyes, Kikes, Ringdoves, Jeps, or smaller birds for Watkes meate onely, the partie licenced becoming bound to the King by Recognisance of 11. li. not to shoot at any the fowle prohibited by this Law, nor to shot within five hundred paces of any Vernye, nor within one hundred paces of any Pigeon house nor in any Parke, Forrest, or Chase, where the partie licenced, or his master is not the owner, keeper, or gouernor, 1. Iac. c. 27.

Handgun.

Wyes.

Iustices of the Peace may in their Quarter Sessions, enquire of, heare, and determine the offences of putting to pasture any horses, &c. under the height appointed by the

Statute 32. Hen. 8. cap. 13.

They may at their like Sessions, enquire of Highwayes, and determine the offences of not amending the highwayes, 2. & 3. P. & M. ca. 8. 5. Eliz. ca. 11. & 18. Eliz. cap. 9.

In their Quarter and Generall Sessions, keeping holden, they ought to enquire of, heare, and determine the offences of not keeping continuall houses upon the precincts of the late Monasteries, 27. H. 8. cap. 5. 5. Eliz. cap. 2. & 14. Eliz. c. 11. 17. Eliz. cap. 11.

And in their Quarter Sessions, they may Informers, heare, and determine the offences of Informers, 18. Eliz. cap. 5. & 37. Eliz. cap. 10. And Perjurie. At the like Sessions, they may doe the like for offenders in Perjurie, 5. Eliz. cap. 9. 27. Eli. c. 11. 1. Jac. cap. 25.

Such as be suspected of using counterfeit tokens or letters, may be called by proces to the next generall Sessions, and must be convicted thereof, 34. H. 8. cap. 1.

Just. of the Peace may in their open Quarter Sessions, call before them the owner of a house, and ry. of the Commoners there, for setting out the fourth part thereof, 35. H. 8. c. 17. & 13. Eli. cap. 25.

The taxes for reliefe of the Poor people in towns with the plague, must be certified at the next Quarter Sessions: the same to continue, be enlarged, extended to other parts of the Countie, or determined, as to the Justices of

Peace at such Quarter Sessions, or the more part of them shall be thought fit, 1 Jac. ca. 11.

**Master and
Servant.**

The proofe of the sufficiency or insufficiency of the cause, for which the Master may put away his servant, or the servant may depart from his Master before the end of the terme, shall be made at the Quarter Sessions, 5. Eliz. cap. 4.

Badgers.

The licences for Badgers, Drouters, &c. are to be granted in the open Quarter Sessions, 5. Eliz. cap. 12. and the prohibition of transporting Corne, is to be made by the more part of the Iustices of peace at their Quarter Sessions, 13. Eliz. cap. 13. See 1. ac. cap. 25. for transporting of Corne.

**Transport
Corne.**

Tillage.

The offences against the new statute of Tillage, are to be inquired, heard, & determined at the Quarter (or Generall) Session 39. Eliz. cap. 2. 1. Jac. 25.

Prisoners.

The Iustices of Peace at their generall Quarter Sessions of y^e peace, or the more part of them then present, may rate and take every Parish within the shire, at such reasonable summes of money for reliefe of Prisoners in the common Gaole, as they shal thinke convenient by their discretions, so that the same rate exceed not five pence or six pence by the hundred out of every parish: And the same being levied by the Churchwardens, and paid over to the High Constables, or head Officers of the Towne, Parish, Hundred, riding, or hundred.

like, according to this Act, the said High Constables and head officers are to pay the same at every generall Quarter Sessions, to such sufficient person dwelling nere the said Gaoles, as shall be appointed by the said Iustices in their said open Quarter Sessions, to receive the same, 14. Eliz. cap. 5. and 1. Jac. cap. 25.

If the Parish and Hundred be not able to provide the Poore of the Parish therein, the the Iustices of the Peace (or greater number of them) may at their general Quarter Sessions take any other Parishes &c. thereunto: & they may there, by agreement with any Lord of half or common, set up habitations there for the Poore, and place Inmates in the same, and they also may at such Session asseesse the parents, or children (being of sufficient ability) to relieve their poore and impotent children and parents, 39. Eliz. cap. 3. and 43. Eliz. cap. 2.

The parties grieved by any act done upon Poore. the statute 43. Eliz. cap. 2. are to be relieved by the Iustices of Peace at their general Quarter Sessions. And the father, grandfather, mother, grandmother, and child of the poore, being of a sufficient ability, may there be used toward the reliefe of the said Poore, 43. Eliz. cap. 2. 1. Jac. cap. 25.

The Iustices of Peace (or the more part of them) may at any Quarter Session give order, in the erection of Houses of Correction, & for Stocks of Poney, & all other things necessary

Dangerous
Rogues,

Houses of
correction.

for the same, or for the government thereof: and they may banish, or condemne to the Gallies, such Rogues as shall appeare to be dangerous, 39. Eliz. cap. 4. And may brand them in the left shoulder with a hot burning Iron, with a great Roman R. and thereupon may send them to the place of their dwelling, or to the place where they last dwelt by the space of a yeare, or to the place of their birth, therein be placed in labour as a true subiect ought to do, 1. Jac. cap. 7.

And such Houses of Correction are to be purchased, conveyed, or assured upon trust to such persons, as by the Justices of Peace, or the more part of them, in their Quarter Sessions of the Peace shall be thought fit: And such Justices may at their Quarter Sessions of the Peace, (next after such houses built, & so from time to time) appoint Governours, or Masters thereof: and may make them such allowance for maintenance, as they shall thinke meete. And if the Masters of Houses of Correction doe not euery Quarter Sessions, yeld a true and lawfull account vnto the Justices of peace, of all such persons as haue bene committed to their custodie, Or if the said persons trouble the Countrey by going abroad, or escape from such Houses of Correction, the more part of the said Justices in their Quarter Sessions, may fine the said Masters and Governours, as they shall thinke fit, 7. Jac. cap. 4.

The deceitfull vlers of Logwood for dying, Legwond,
are to be tried and Judged to fine and pillorie,
at the quarter Sessions, 39.El.c.11.

The Justices of Peace (or the moze part of Wilt:
them) may by their discretions, in the open
quarter Sessions, restraine the conuertyng of
Barley into Wilt, 39.El.c.16.

They also in their open quarter Sessions, High waies.
may conuict such as carie not, or pay not, to-
wards the amendment of the highwaies in the
Weald of Kent, Surrey, or Sussex, as this
statute doth appoint, 39.El.c.19. and the pre-
sentment of such defaults ought to be made by
the Surueyours of Highwaies, at the next
quarter Sessions after such default, Ibid.

The offences against the statute concerning Rothernes
the deceitfull stretching, or tentering of Rothernes
Clothes, are inquirable and determina-
ble before the Justices of Peace at their quar-
ter Sessions: and those defaults are to be pre-
sented by the Ouerseers, at the next quarter
Sessions after such default made, 39.El.ca.20.
See 4.Iac.c.2.

The assignment and renocation of the pen-
sions for disabled Souldiers and Mariners, Souldiers;
must be made by the moze part of the Justices
of the peace at the quarter Sessions: and they
may there set fine vpon the Treasurer, that
shall willingly refuse to pay any of the same
pensions, 43.El.c.3.1.I.c.25.

Tauernes.

The assignement of such as shall haue any Tauerne to utter Wine, ought by the statute 7.E.6.c.5. to be made at the generall Sessions. But it is otherwise vsed, by speciall grant.

**Beggers
child.**

A beggers child may at the generall Sessions be bound to serue any subject of this realm being of honest calling, 14.El.cap.5.& 18.El.cap.3.

Purveyors.

The Dockets of Purveyors ought to be deliuered ouer to the Iustices of Peace at the next generall Sessions, 1.& 3.P.& M.c.6.

Inmates.

A decree may be made at the quarter Sessions for the continuance of a Cottage that hath not foure acres of ground: and there may the Iustices enquire, heare and determine of Cottages and Inmates, in offence of the Statute, 31.El.c.7.

Wages.

The conviction of a Clothier, or other, upon his owne confession, or profe by two lawfull witnesses, for not paying so great wages to their weauers, &c. as shall be set downe according to the true meaning of this Act, may be before the Iustices of Peace in their quarterly Sessions: and the forfeiture of r.s. by this statute giuen to the partie grieved, may be leuied by distress, and sale of the offenders goods, by warrant from the said Iustices, 1.Iac.cap.6.

**Lawfull
games.**

All offences against any statute, for not vsing any lawfull game, or vsing any vnlawfull games, or for not hauing Bowes & Arrows,

according to the Law, or for using any Art or
Mystery in which the parties hath not bene
brought up according to the Statute thereof,
shall be sued, or otherwise inquired of, heard,
and determined in the quarter Sessions of the
Peace, or Assises of the Shire where they shall
be committed, or in the Leet, within the which
they shall happen.

The Act of rebellious assemblies (or the et. *Verba.*
last thereof) ought to be openly read at every
quarter Sessions, 1. Mar. Par. 1. cap. 12 & 1. El.
cap. 17.

The Justices of Peace have power (in their Under-sheriffs
open Sessions) to enquire, heare, and determine
the defaults of Under-sheriffs, Clerkes of the
peace or Under-sheriffs, and of Bailiffs, &c. in
not taking the oaths appointed by the Statute,
17 El. c. 12.

The abjuration of a seditious Sectarie, *Recusant.*
ought to be made in the open quarter Sessions
of the Peace, and there to be entered of Record:
and the place certaine, and name of a Popish
Recusant (limited by this Statute unto a place)
ought to be certified by the Minister and Con-
sable (that took and entered it) to the next quar-
ter Sessions of the Peace, and there be entered
of Record in the Rolls of the Sessions by the
Clarke of the Peace, 15 El. c. 1 & 2.

The penalties forfeited by a conformed Re- *Recusant.*
cusant, for not receiving the Sacrament accor-
ding

ding to this statute, may be recovered by action of debt, bill, plaint, or information, before the Just. of Peace at their quarter Sessions 3. l. c. 4.

Recusants.

The monthly absence from Church of Popish Recusants, and their Childzens names of ix. yeeres old and upward, abiding with them, and their seruants names, ought by the churchwardens, and constables to be yearly presented at the quarter Sessions, and by the Clarke of the Peace, or Towne Clarke, recorded in the said Sessions, 3. l. c. 4.

Recusants.

Justices of P. at any their quarter Sessions haue power to enquire, heare, and determine, of all Recusants, and offences, as well for not receiuing the Sacrament according to the Law, as for not repaying to church according to former Lawes, in such manner as Justices of Assise, and Gaole deliuerie may doe: and at the Sessions (in which any Indictment for not repaying to Church, or receiuing the Sacrament shall be taken) to make proclamation for rendring of the offendors bodie to the Sherif, &c. before the next quarter Sessions: at which if the offender shall not make apparance of record, the same shall be a sufficient conviction of the offence whereof he was indicted, 3. l. c. 4.

Repaire to the Church.

The Oath of Allegiance.

The refusing of the Oath of Allegiance required by two Justices of Peace, & the taking of the same oath, and Oath of Supremacie

and conformed Recusant returning into England, are to be certified at the next Quarter Session. And the said Oath of Allegiance may be required in the Quarter Sessions of such person as formerly refused the same: And such person, or any other whatsoever (other then Noble men and Noble women) refusing the said Oath, being tendered in the said Sessions, shall incur the danger of Præmunire, except women covert, who shall only be committed by the Justices of Peace in their quarter Sessions to the common gaole, without bail or mainprise, till they will take the said Oath, 3. Jac. cap. 4. 7. Jac. cap. 6.

All offences done against this Act, other then Treason, shall be inquired, heard, and determined before the Justices of Peace in their generall or Quarter Session, 3. Jac. cap. 4. Recusants.

If a Crucifixe, or other Relique of any price be found in a Recusants lodging, or custodie, upon search to be made according to this Act, the same is to be defaced, at the generall or Quarter Sessions, & so defaced, to be restored to the owner, 1. Jac. cap. 5. Reliques.

By warrant of foure Justices of Peace at their generall Sessions, Recusants Armour, Gunpowder, & munition, shall be taken from them, (other then necessary weapons to be allowed them by the said Just. for their defence:) & shall be maintained at the costs of such Recusants, in such places as the said Just. at their Recusants Armour.

saie Sessions shall appoint. And if they shall refuse to declare what Armour they haue, or disturbe the deliuerie thereof, the person offending shall forfeit the same Armour &c. and be imprisoned thre Moneths, without Baile or Paineprise, 3. Lac. cap. 5.

And inquire of others, whether the Proclamation (set forth 4. H. 7. cap. 12.) be not yet to be read at euery Quarter Sessions also: for some doe thinke, that it was to endure for the time of that king onely.

The reason
why some
things be re-
peated.

These and some few others (which peraduenture I do omit) haue reference (as you see) to any of the same general Sessions, for so many of the which, as be inquirable (and ought therefore to be giuen in charge) I may seme either to haue committed Tautologie in reporting them twice, or (which is worse) to haue writtten a repugnancie, in that I did first deliuer them as common to all Sessions of the Peace, and doe now here restraine them as proper to the generall: But this is shortly the cause of my so doing: some men be of opinion, that these statutes which be inquirable by expresse words at the Quarter Sessions onely, may neuerthelesse be inquired of at the speciall Sessions also. And their opinion seemeth to be backed by some words of the reformed Commission of the Peace, where power is giuen to two Iustices of Peace, (the one being of the Quorum) to inquire, heare, and determine
of all

of all offences, of which Iustices of the Peace lawfully may or ought to inquire: ~~Nevertheless,~~ as the Commission there speaketh only of inquirie, hearing, and determining, and not of other Aites: so haue I hitherto doubted, whether that be true in all cases, or no: for as the Iustices of Peace haue none other warrant to inquire of these matters, but onely by those statutes which doe appoint the inquirie to be made at the Quarter Sessions: so they ought to pursue that warrant, if they will take upon them to inquire, and haue any care that their doings may be warranted.

And I thinke it be no great doubt, but that as the statutes do many times giue degrees of power, sometimes in greater measure, and sometimes in lesse: so also the same statutes may restrain the authority of inquiry to some certaine Sessions, & especially to the Quarter Sessions, in respect that they be both more open, more commonly knowne before hand, & better furnished with Iustices, and consequently the meeter for administration of justice, specially in affaires of the weightier sort. And therefore I haue in this part laboured, both to satisfie their opinion in the one, and to serue mine owne fantasie in the other.

But now also let vs look out some such things as be left only to the Easter, Michaelmas, or Wolsomer Sessions.

The pyces of vessels, for sops, ale, and baire,

Easter Sessions.

Pyces of vessels.

Wage, shall be set and proclaimed by the Justices of Peace at their quarter Sessions after Easter, 8. El. c. 9.

**Wages of
Servants:**

The wages of Servants and Labourers, are to be rated by the Justices of Peace at the Easter quarter Sessions, or within six weeks after Easter, where those Sessions be usually holden in one place of the Shire by all the Justices together: But where they are not so usually holden (but in severall places for severall divisions) there the Justices of Peace, or the more part of them (resiant within such division) shall at the same quarter Sessions, or at the time of Easter Sessions (as is aforesaid) rate and ingrosse in Parchment vnder their hands and seales, the wages for Labourers and Servants within that division, and the Sheriffe shall proclaim the same in place convenient thereto, 5. Eliz. cap. 4. & 39. El. c. 12. 1. Jac. c. 25. See 1. L. c. 6.

Peace:

And they must perely in the same Sessions examine the performance or not performance of so much of the statute made for the peace, 14. El. c. 5. as is not altered, by 43. El. cap. 2. 1. Jac. cap. 25.

**Treasurers
for Soldiers**

The account of the Treasurers for disabled Souldiers or Mariners, is to be made perely at the quarter Sessions after Easter, or within ten daies after, 43. El. c. 3.

The Iustices of Peace, at their generall Sessions next after Easter, shall rate euery parish to a weekely summe not aboue six pence nor vnder a halfe penie towards the reliefe of the prisoners in the Kings bench, Sparshalley, Hospitals, and Almshouses in the Countie, and rate the sums to be sent to euerie of these places: and elect a Treasurer for that purpose, and punish him that refuseth, 43. El.c.2.

The Iustices of peace in their generall Sessions after Easter, shall rate euery parish towards the reliefe of Souldiers and mariners, 43. El.c.3.

At the quarter Sessions to be holden after Michaelmas, the Iustices of Peace are to appoint Searchers for Waste and Dewter, 19. H.7.c.6. & 4. H.8.c.7.

And at the generall Sessions after Michaelmas, two Iustices of the Peace ought to be appointed by the Custos Rotulorum, or (in his absence) by the eldest of the Quorum, for the oversight and controlement of the Sherifes books, &c. 11. H.7.c.15.

The Sheri-

Souldiers.

Michaelmas
Sessions.Waste and
Dewter,Sheriffes
books, &c.

Particular Statutes,

In the number of particular Statutes, concerning the quarter Sessions, these may have place.

Norfolke.	33. H. 6. cap. 7. For Attorneys in Norfolke.
Seuerne.	16. H. 8. c. 5. For passing ouer Seuerne.
Cheshire.	31. H. 8. c. 43. For Sessions in Cheshire.
Halifax.	1. & 3. P. & M. Of Wools in Halifax.
Algate.	23. El. c. 18. For paung without Algate.
Norfolke.	27. El. c. 24. 1. Jac. c. 25. For the Sea banks in Norfolke.
Nonesuch.	3. Jac. cap. 19. For repaying the high way from Nonesuch to Talworth in Surrey.
Oxford.	3. I. c. 20. For cleering the passage by water, to, and beyond the Citie of Oxford.
S. Giles in the fields.	3. I. c. 22. For paung of Drurie lane, and Saint Giles in the fields in Middlesex.
Vpton bridge.	3. I. c. 23. For making vp of Chepstow bridge.
Chepstow bridge.	3. I. c. 24. For reedifying a bridge ouer Seuerne, neere Vpton vpon Seuerne.

Of the Special Sessions of
the Peace.

CAP. XX

The Special Sessions of the peace
do varie from the generall, in this
chiefly, that they be holden at o-
ther times, when it shall please
the Iustices themselves, to any time of them
(as one being of the quorum) to appoint them.
By this power they have, not onely by the
Commission, but also by the Statute 2 H. 6. c. 4.
which alloweth them to do it more often then
three times, if need do so require.

They be also (for the most part) summoned
by some speciall businessse, and not directed to
the generall service of the Commission: And
yet there is no doubt, but that all the Articles
within the Commission of the Peace, are both
enforceable & determinable at any speciall Ses-
sion of the Peace.

¶ First. (as I have already noted) beeth a
difference betwene the generall & special
Sessions of the Peace: affirming that where-
as at the generall Sessions, the Iustices of W.
are of dutie to give in charge, all matters
(within the Commission or Statutes) that are

what things
be enquireable
at the speciall
Sessions of
the Peace.

to bee determined before them: yet neuertheless at the speciall Sessions they are at libertie to giue in charge, either all, or any of them, as it shall seeme good vnto themselves.

I will not gainsay, but that the Iustices of Peace may at a speciall Session of the peace, giue in charge all such Statutes as do giue vnto them a generall power of inquirie (without vsing words of restraint to any Session, as both the Statute 19. H. 8. c. 13. of Whorehouse, I will graunt, that they may also at the speciall Sessions of the peace, giue in charge to inquire vpon all such other Statutes, as are in the words Sessions indifferently, without vsing generall or speciall: of which sort there is a great many, as 5. E. 6. c. 4. of Fighting Church or Churchyard, 14. H. 8. ca. 11. § 1. of 7. c. 11. of Vnting, 5. El. c. 13. of Linen Cloth, 3 & 3 P. & M. c. 7. of Faires and Markets, H. 4. c. 3. of sea watch, & 7. Ed. 6. c. 5. of Tithes and sundry others. But whether they may there also inquire of such other Statutes, as only assigne the inquirie to be made at the Quarter Sessions, you haue heard my minde, & read my reasons in the Chapter last before.

Howsoeuer it be, there might be great trouble the special Sessions of the peace, if they were now and then holden (betwene the Quarter Sessions) to deliuer the Gaoles of vnruly persons, petite theues, and some others. For it is daily too welproued, that many (being

The title of
the speciall
Sessions.

the

either for correction) do sucke nothing but correction there : so as they be waxes when they come forth, then they were when they were first committed: which euill happeneth by long tyme there in wicked companie : whereas, if they had more speedie trial, both they should be amended, and the Countrie lesse charged by it.

For in realmes and countries doe reape the fruit of sowe by iustice: and if our gaols of England were more often swept and emptied, I trust not but that we also should find a benefit to arise thereby.

Nevertheless some men will say, that by this meanes we shall be able upon vs again the inconuenience of troubling the countrie which hapned by the six wicked Sessions, which hath therfore abrogated by the statute 37. H. 8. c. 7. But that is not to be feared : for whereas these Sessions were to be holden in euery shire of the shire, these may be kept onely in the shire where the Gaole standeth : the which (as it is commonly populous) shall be easily able to furnish this seruice without calling any remote part of the countrie vnto it.

Re :

The

The forme of the Precept for Sum-
mons of a Speciall Sessions,
may be thus.

MOilus Finch miles, Ioh. Boys, & Henricus Finch armigeri, Iusticiarii (sive alii) domini Regis nunc ad pacem in comitatibus Ranc' conservand' assignati, Necnon ad diversas felonias &c. Vicecom' comitatus predicti salutem: Ex parte dicti domini Reg' precipimus firmiter iniungentes, qd non omittas propter aliquam libertatem infra hundreda de O.P. et 2. aut eorum aliquod in comitatu predicto, quin veni facias coram nobis apud R. infra hundredam de O. predictam x. die Aug' proxim' futuro xxiiij. probas et legales homines de eisdem hundredis, ad inquirendum tunc ibi, pro dicto domino Rege, tam super quibusdam articulis in statuto in Parlamento nup' Reg' Eliz. anno regis sui quinto, teni', adit', Artifices, Laboratores, servientes et apprenticiis concernentibus, quam super articulis quibusdam in statuto in Parlamento dicta nup' Reg' anno regis sui xxxiiij. teni', adit', Roguas, vagabundos, validos mendicantes et alios pauperes tangentibus. Proclamari etiam facias in idoneis locis per hundreda predicta, qd omnes qui versus predictos artifices, Laboratores, servientes, apprenticiarios, roguas, vagabundos, validos medicantes, et alios pauperes seu eor' aliquos coquer' voluerint, sint tunc ibid' cor' nobis ad prosequendum versus eos parati, Et sis ibi tunc, vel vicinioribus tunc.

habens nomina Iuratorium pred, & hoc nostru bro-
ca. Testibus nobis prefatis M.F.I.B. et H.F. apud L.
in comitatu pred ultimo die Martij, ann' regni dill
lun, nostri Jacobi dei gratia Anglie, &c. regis, &c.

tricta
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Of the Rewards and Punishments,
due to Iustices of the Peace
in respect of their
Sessions.

CAP. XXI



ill and euill doing, doe from the
first to the last, deserue reward and
punishment: and therefore as was
closed vp the first part of this treatise
with them, so also shall this last Booke re-
maine the same conclusion.

Whilist it was at the libertie of the Iustices
of peace to hold their quarter Sessions as they
thought best, the Law did not allow
them any wages for their paines. But when
the Statute (13. R. 2. c. 10.) had bound them (vnder
the paine of punishment) to continue their
Sessions thre daies together (if the affaires of
that Office did so require) the same Statute
thought it meet also, to allow to euery of them

The wages
of the Iust of
the P. at the
Quarter
Sessions.

iiij.s. by the day, for the time of their Sessions, to be paid by the hands of the Sherife, out of the Fines and Amerciaments rising of the same Sessions: and that the Lordes of Franchises, should bee contributoryes to those wages, after the proportion of their parts of the said Fines and Amerciaments.

But because it was very Dilatory for the Justices of Peace, to take those wages, at the hands of the Sherife (as I have already touched) upon the Cstreat sent out of the Eschequer: And for that also it grew in question, whether such Lordes as were named in the Commission of the Peace, should bee partakers of the same Wages: the statute (14 R. 1. cap. 11.) did plainly provide, that the wages of these Justices should be levied and paid by the Sherife upon Cstreats doubled indented betwene the Sherife and them: And that no Duke, Earle, Baron, or Barons (albeit they were Justices of the Peace, and did hold their Sessions with other eight Justices) should take any wages for their office in their behalf.

And herof also M. Mar. collecteth, y^e howsoever many Commissioners of the peace there shall be assembled at these Sessions, yet only eight of them shall receive the wages: because (saith he) that at such time as these wages were first appointed, the Law did take knowledge and make allowance only of eight Justices

And he also maketh it doubt-
ful whether it be not in the power of the Ba-
rons of the Exchequer, to appoint which eight
(when moe be assembled at the Sessions) shall
pay the Wages paid unto them.

For the first point, it would bee somewhat
hard (indeed) to straine that Statute so far, as
to give wages thereby to so many Iustices
when now at those daies in every Shire, and
county bee present at the Sessions; Yet the
Statute of Labourers, 5. Eliz. cap. 4. that will-
eth the Iustices of Peace in every Shire to
make themselves, & to keepe two speciall sit-
tings yerely so; the execution of that Law, al-
though to as many of them as shall give their
attendance 5. shillings a day for three daies to-
gether. But concerning the latter point, it se-
emeth by the latter Statute it selfe, that the Sher-
iffe shall first pay the wages, and then the Ba-
rons shall make the allowance according to
the Indenture; So that I see no liberty of
nomination left unto the Barons.

I confesse, that it might breed both offences
against the Sheriffe, and a zealous among the
Iustices themselves, to haue one of them pre-
ferred before an other in this payment; and
therefore I think it wisely done (as it is some-
times used) to bestow the whole allowance
upon the defraying of their common diet.

At the fines and ameraciements of the same

Ar 4

sessions

sessions (saith Mr. Min.) will not fully answer
to the sum of the wages then due to the Jus-
tices, yet shall the wages be rateably payed
of them, so far as they will extend.

Buckstals.

Furthermore those two Justices of the
that do in their sessions call before them, a
person suspected to offend the statute of De-
bailes, Buckstals, and Stalking, and do examine
him thereupon, & find him faultie therein, shall
have the tenth part of the forfeiture growing
thereby, 19. H. 7. c. 11.

¶ punishment
at the common
Law.

Whitherso of Reward, henceforth of Pun-
ishment. It seemeth by the opinion of some Jus-
tices (2. R. 3. 10) that if a Justice of the peace do
any thing of Record ignorantly, and for want
of knowledge, that he shall not be punished
for it. And this opinion of theirs is not new
in this realm, although it be otherwise truly
Imperitia quoque culpa administratur: for you may
read in the old Lawes of King Edgar (cap. 1)
and of King Canute (cap. 17,) that if a Justice
had erred in his office he might then have excu-
sed himselfe by oath, That he did it not of wil-
linge minde, and that he knew not how to do better,
which I speake not to comfort men in careless
ignorance, but to shew you that men may be
and (erring by infirmitie) they are not altogether
unworthy of pardon: and withall to
the Justices of Peace see, that it may be a fault
to erre by ignorance, and that therefore they
ought

to say (where they meet with *non liquet*)
their owne Commission doth direct them.

Now, on the other side, if a Justice of the
Peace will craftily embesill an Enditement
willfully raze any part thereof, or malici-
ously enrole (or file) that for an Enditement
which was neuer found by the Jurie: Then
by the resolution of all the Justices assem-
bled before the King in the Starre-Chamber
(*2. H. 3.*) a Commission may goe out to enquire
by the oathes of twelue men) of such his mis-
demeanor, and if he be convicted thereof, he be-
cometh to lose his Office, and to make fine to
the King according to the quantitie of his
negligence and offence, *Ibidem fol. 10.* And
also so may he be punished (as this booke lea-
veth me to thinke) if he alter an enditement of
treas, into an enditement of felonie, *hotosoe*
on the opinion of *7. Lib. Ass. pl. 18.*) he found a-
gainst it.

A Justice of the Peace may also be endited
of the unlawfull taking of money for doing his
office, or of such other falsities, *Fitz. Nat. b. 243.*
And if hee cause a man to be endited at the
Sessions, by some conspiracie, or indirect
guilt, he is punishable for it as a priuat man
2. E. 4. 67.

But if (in the handling of a cause at the open
Sessions) it happen him to speake against an
Endite, somewhat excessively, yet he shall not
be

be punished for it: *Iuris enim excusatio, non habet iniuriam*: Nevertheless, Judges ought not to abuse their tongues by intemperance, but they must rather take great heed (as Cic. pro Font. said) *Quibus verbis utantur, ne quid minus modeste positum, ne quid, ab aliqua cupiditate prelosum verbum esse videatur.*

**Punishments
by Statutes.**

Thus facts of punishment by the common Law, now to those by Statutes.

Alehouse.

If the Iustices of Peace, having taken a Recognisance for an Alehouse, do not certifie it at the next quarter Sessions of the peace, they shall lose five markes, 5.E.6.c.15.

Highwaies.

Five pounds.

That next Iustice of the Peace which doth not certifie at the next generall Sessions of the Peace, such presentments as the Overseers of the highwaies have before presented unto him shall lose v.li. for everie default, 1. & 3.P. & M. c.8. & 5.El.c.13.

**Servants
wages.**

Tenne pounds

If any Iustice of the Peace (not being sick, nor having other lawfull excuse to be testifies under the Oath of one assessed in the Subsidie booke at v.li. 4c.) doe not assemble at the Easter Sessions, to rate the wages of servants, &c. he shall lose x.li. to the King, 5.El.c.4.

Gunnas.

**Twentie
shillings.**

The Iustice of Peace which faileth to record (at the next quarter Sessions) the names of any person (authorized to shoot in a Gunne) that hath presented his name unto him, shall lose xx.s. 2.Ed.6.cap.4. If that Statute doe so
farre

extend, whereof the words giue cause of
Statute.

Those Iustices of Peace that neglect to cer- **Conformed**
 tifie, at the next generall or quarter Sessions, **Recusants.**
 the Oathes taken on submission of any person **Fortie pounds;**
 committed to the See of Rome, returning into **3. l.**
 this Realme, shall lose fortye pounds, 3. l.

And if the Proclamation (annexed to the **Proclama-**
 Statute, 4. Henr. 7.) ought now to bee read, **on read,**
 then if it be not read at each quarter Sessions, **Twentie**
 every Iustice of the Peace there present, shall **shillings.**
 lose xx. s. 4. H. 7. c. 12.

If the Iustices of the Peace, before whom **Hope.**
 any presentment shall be made at their quar- **An hundred**
 ter Sessions, against any person for extolling **pounds.**
 the authority of the See of Rome, doe not cer-
 tifie the same into the Kings Bench within xl.
 daies after, if the Terme be then open, and if
 not, then at the first day of the next full Terme
 they shall forfeit of them loose C. li. for every
 fault, 5. Eliz. c. 7.

Those Iustices of the Peace, which do not
 certify into the Eschequer, their examinations **Examinations**
 taken concerning the entring of complaints by the **Forty shillings**
 Sheriffe, shall lose fortye shillings, 1. Henr. 7.
 cap. 5.

And

**Penalties
Clothes,**

And the Justices of Assize may require
journs and determine, the offences of any
cases of Penes, in not using their vesting
for execution of the Statute made
against the deceitfull
thing of Penes
Clothes,
39. Elizab. cap. 20.

The



¶ The Epilogue.



Thus haue I (by the fauour of The Epilogue.
God) brought this Treatise to
an end : Wherein if many
things haue escaped me un-
seene, I doe not greatly mar-
uaile, when I looke backe and
behold the varjetie and multitude of the mat-
ter that I haue passed through : and it shall not
be hard for him that meeteth with such E-
strayes to take and lodge them in their right
Tules here.

Againe, if I shall be thought to haue heaped
up too many conceits (borrowed out of M. Mar-
rowes reading) I make answer, that I haue
omitted many, and haue made the best choise
that I could.

If furthermore I shall seeme to those that be
Masters in Art and Method, not to haue tho-
rowly obserued their rules, and specially that
because I do many times mingle aliena,
things not precisely pertaining to my matter in
hand :

The Epilogue.

hand : To them I say, that it is the received manner of teaching in our Law, To shew things by their contraries and differents : and seeing that great light commeth to the matter thereby, I may neither altogether condemne it as vnapt, nor reiect it as vnseruiceable.

Moreover, if I haue been deceined in laying downe ouer boldly mine owne opinion, I will lesse gladly be admonished of it, than readily reforme my mistaking.

Finally, whatsoeuer other thing is done, and I protest that it hath escaped of vnskill, and not proceeded of wilfulnesse : and therefore, I desire that I may be allowed the benefis of that Pardon, which (as I told you euen now) is in like case grantable to a Iustice of the Peace.

A Table containing (verie neere)
all the imprinted Statutes, both generall,
and particular, wherewith Iustices of the
Peace haue in any sort to
deale.

<i>King.</i>	<i>Years.</i>	<i>Chap.</i>	<i>Content.</i>
Edw. 3.	9	15	Of measures and weights, The assise of Bread and Ale.
	51	5	The iudgement of the pillorie.
		2	The Ordinance for measuring.
		4	Of weights and measures.
Edw. 3.	3	9	Of fresh suit after felons.
		10	Of Coroners.
		15	Of Bailement of felons.
		25	Against Maintenance.
		26	That Sherifes and other Ministers shall take no rewards.
	83	27	Of fees for deliuering Chapters.
		28	Of maintenance of quarrels.
		34	Of rauishing women.
		47	Of taking Salmon.
		49	Against Maintenance.
			The Statute of Winchester.
	18	11	Against Maintenance.
	34		For measuring of Land.
			Definition of Champertors.
Edw. 3.	1		For breaking prisons.
	18		For purveyors.
			For Estreats of the Exchequer.
Edw. 3.	1	14	For mainteynance of quarrels.
		16	For keeping of the Peace.
		17	Indictments before Sherifes to be taken by indenture.

For

King.	Yere.	Chap.	Content.
		3	For coming before the Kings Iustices with force and armes.
		6	A confirmation of the Statute of Wine.
		2	Of Wardens of the Peace.
		4	That purueyours pay in hand, and have a warrant vnder the great or small Seale.
		10	Against Sherifes and Gaolers that will not receiue theues, & such other into their Gaoles:
		3	Against the Kings Purueyours.
		10	Iurors that take money shall no more passe vpon Iuries.
		11	That Iustices that are assigned to determine felonies haue power to write to forrein countie.
		14	Against Roberts men and drawlatches.
		10	Gaoles of the Countie to be annexed to the Sherifes.
		2	Iustices of Peace made.
	18, Stat. 1	4 & 5	For mainteyning of quarrel.
	20	6	For victualers.
	23	1	For Purueyours.
	25	3	For forestalling of Wine.
	25, Stat. 4	9	Auncel weight taken away.
	25, Stat. 5	10	For weight and measuring.
		15	For takers of sheepe.
	27, Stat. 1	4	None going to the Staple, be disturbed by the Kings takers.
		10	For weights of the Staple.
		11	For safegard of Merchants aliens comming within this realme.
		1	For Iustices of Peace.
		3	For purueyours.
		5 & 6	Iustices of Peace to enquire of measures.
		22	For Hawkes found.

Against

	<i>Years.</i>	<i>Chap.</i>	<i>Content.</i>
	36	2.3.4.4.6	Against Purveyors.
		12	For the Sessions of the peace.
	37	19	For finding of Hawkes.
	43	9	For leuying of the greene waxe.
	1	3	All Statutes of purveyors confirmed.
		4	For maintenance of quarrels.
		7	For giuing of Liveries.
	2	2	For forestalling of Wines.
	5	7	For entring into lands.
	7	8	For purveyors.
		13	For riding in harness.
	12	3	A confirmation of all Statutes for victuallers.
		6	For bearing weapons.
		10	Iustices of peace to punish vagabonds, and for holding their Sessions.
	13	4	Clerke of the Market.
		7	Iustices of Peace bee made anew.
		8	For price of victuals.
		9	For weights.
		13	For hunters.
		19	For safegard of fish.
		11	For assigning of Iust, of peace.
	14	2	For forcible entries.
	15	4	For measuring corne.
		3	The Clerke of the Market to haue readie his weights according to the Standard.
	16	4	For liveries of Companies.
		8	For Riots and vnlawfull assemblies.
	17	9	That Iustices of the peace shall be Conservators of the Statutes made for Riots.

King.	Years.	Chap.	Content.	
By the 4.	20	10	Two men of Law to be assigned in the commission of the peace to deliver Gaoles.	
		1	For riding armed in the realm.	
	1	2	For wearing of Liveries.	
		7	For giving of Liveries.	
	2	11	For extortion by Sherifes.	
		12	For Purveyors.	
	4	21	For giving of Liveries.	
		25	For Hostellers and Victualers.	
	5	3	For watch vpon the sea-coasts.	
		4	Multiplication made felonie.	
	7	5	For cutting tongues, & putting out of eyes.	
		10	Iustices of peace to imprison men in the common gaole.	
	By the 5.	13	3	Of the manner of making our Estraits.
7			For arrowheads.	
13		14	For giving of Liveries.	
		7	Of Riots and Rours.	
1		10	For weights and measures of corne.	
		4	Of the sessions of the peace.	
2		3	For reformatiō of riots & rours.	
		9	Processe against rioters that fly into woods.	
Stat. 1.		1	Of Iustices of Peace.	
		3	For gilding and siluering.	
9. Stat. 2.		8	Of false weights.	
		By the 6.	2	11
14				For Goldsmiths selling worked siluer.
8	4		For giving of Liveries.	
	5		For weights.	

King.	Years.	Chap.	Content.
		9	For forcible entries.
		10	For proceſſe in Enditements & Appeals.
		14	For felons and murderers, that void themſelves into woods.
	11	6	For commiſſion of peace.
		8	For weights and meaſures.
	14	11	For Waxe Chandlers.
	18	4	For Sessions in Middleſex;
		11	A luſt. of peace to haue twenty pound land.
		19	For ſouldiers departing without licence.
	20	8	For reſiſtance of Purueyors.
	23	1. & 2	Againſt Purueyors.
		10	For extortion of Sherifes.
		11	For leuying Knights wages for the Parliament.
		13	Proclaiming the ſtatutes for Viſtuallers.
	31	3	Of Attachments in the Courts of the Marches.
	33	1	A repeale of an Act for Outlagaries in Lancaſter.
		7	For Attornies in Norff. & Suff.
Ed. the 1 st .	1	1	For Inditements & preſentments in Sherifes Turres & Lectes.
	8	1	For Liveryes of Companies.
	11	1	For Bowſtaues.
		9	For Eſcheators.
	17	4	For making of Tile.
Ed. the 1 st .	1	3	For enquire of eſcapes: for ſetting of ſuſpects of felonie to baile.
		11	For Bowſtaues.
		12	For the meaſure of wine & oile.
			ſf 1 Againſt

King.	Yeare.	Chap.	Content.
The 1 st of Hen. 7.	1	7	Against hunters.
	3	1	Giving of liveries, & certifying of Recognisances of Coroners.
		2	Taking maydens, widdowes, or wives against their wils, made felonie.
	7	4	For weights and measures.
	11	4	One weight and measure to be vsed thorough the Realme.
		9	For the inhabitants of North & South Tindale.
		15	Against vntrue demeaning of Sherifes and their officers in holding their Counties.
		17	Against destroying of Pheasants and Partridges with vnlawful engins, and for hawkes.
	12	5	For weights and measures.
	19	6	For Pewterers and Brasiers.
		11	For keeping of Deere haies and Buckstals.
		13	For punishing of Riots.
The 1 st of Hen. 8.	1	7	Concerning the office of Coroners.
	3	12	For reformation of Impanels for the king.
	4	7	For Pewterers and true weights and beames.
	6	6	For remitting prisoners vnto the place where the crime was committed.
	14. 15.	6	For high-ways in the Weald of Kent.
		10	For hunting the Hart.
	21	5	Fees for Testament, & letters of administration.
		7	Against seruants imbeysling their masters

King.	Years.	Chap.	Content.
			masters goods.
	22	5	For repairing of Bridges in high waies.
		10	Concerning Egyptians.
		11	For Powdike in Marshland.
		14	How persons committing petire treason shall abiure.
	23	2	Where, and after what manner the Gaoles within England shall be made.
		4	That no Brewers make vessels, and the contentes of Barrels.
	24	7	Against killing of Calues.
		9	Against killing of Weanlings.
		10	For crow-nets.
	25	6	For punishment of Buggerie.
		11	To auoide destruction of wilde-fowle.
	26	13	What sheepe a man may keepe.
		5	For not conueying anie persons goods or cattels ouer the water of Seuerne, after Sunne set vntill Sunne rising.
		6	For Wales.
		7	For amending highwaies in Sussex.
	27	5	Iustices of peace in Chester.
		10	For inrolment of Deeds.
		10	An order for Tithes.
		14	For recontinuing of certaine Liberties taken from the Crowne.
	32	3	Of Abiuration.
		7	For true paiement of Tithes and Offerings.
		9	Against maintenance &c. & vnlawfull buying of Titles.

King.	Year.	Chap.	Content.
		13	For breede of Horses of higher stature.
		31	For baking of horse-bread.
		43	Sessions in Chester.
	33	1	Concerning counterfeit letters or tokens.
		5	For keeping of great Horses.
		6	For Crossebowes & Handgonns.
		9	For maintenance of Artillerie, and debarring of unlawful games.
		10	For the execution of certaine statutes.
		17	For confirmation and continuance of certaine Actes for Wales.
	34-35.	14	For certificate of convicts to be made into the Kings bench.
	35	11	For payment of knights & burgesses wages of the parliament in Wales.
		17	For the preservation of woods.
	37	1	Of the Custos Rotulorum, and Clerkes of the peace.
		7	For abrogation of fixe weekes Seff.
		8	That Endirements lacking vis armis shall be good enough.
		9	Against vsurie.
		1	Against such as speake against the Sacrament of the body & blood of Iesus Christ, and by the receipt thereof in both kinds.
		5	That no horses be coueyed out of England without licence.
		7	For continuance of Proces, not writ.

Ch. lxvi.

King.	Year.	Chap.	Content.
			withstanding new commissi- on of the peace.
		21	Of poisoning.
	2.3	2	For true seruice in captains and souldiers.
		14	Against shooting of Hail-shot.
		15	For vitailers and handy-crafts- men.
		24	For triall of murders in severall counties.
	3.4	1	Of the Custos Rotulorum.
		2	For the true making of woollen clothes.
	5.6	21	For retailing butter and cheese.
		4	Against fighting & quarrelling in Churches.
		6	For true making of wollen cloth
		14	Against regraters, forestallers, and ingrossers.
		15	Against regraters of tanned lea- ther.
		24	For making of hats at Norwich and in Norfolk.
		25	That alehousekeepers be bound by Recognisance.
	7	5	To auoid great prices of wines.
		7	For the assise of fuel.
Henr.		1	3 That sheriffs shal not be Iustices of peace during their office.
			9 For the incorporation of Philis- tines in London.
		12	Against vnlawfull assemblies.
Henr. 8.	1.2	4	For punishment of Egyptians.
		5	For restraint of corne, &c. ouer the sea.

King.	Years.	Chap.	Content.
		13	An order for Bailement of prisoners.
	23.	3	For keeping of milch kine and rearing of calves.
		6	Against excessive taking of purveyors.
		7	For buying of stolne horses.
		8	For amending of high waies.
		10	For examination of prisoners suspected of manslaughter or felonie.
		13	For wools in Halifax.
		15	That purveyours shall not take viſuall within ſixe miles of Cambridge or Oxford.
		16	For watermen vpon Thames.
		18	For Commissions of peace, and Gaole delinerie in townes incorporate not being counties.
	45.	19	For Powdike in Marshland.
		3	For taking of Muſters.
Elizabeth.	1	1	The reſtoring to the Crowne ancient Iuriſdiction.
		2	For vniformitie of prayer, & adminiſtration of the Sacraments.
			Against deceitfull vſing of linnen cloth.
		16	Against rebellious aſſemblies.
		17	For preſeruacion of Spawne and frye of fiſh.
		18	For continuance of certain ſhops.
		1	For the aſſurance of the Kings power over all eſtates.
		4	Orders for artificers, ſervants, labourers.
		5	For maintenance of the Navy.
		9	For puniſhment of perjury.

King.	Yeare.	Chap.	Content.
		10	For seruants embeseling their masters goods.
		12	For badgers of corne, and Dro- uers of cattel to be licenced.
		13	For amending of high wayes.
		15	Against fond and fantastickall prophecies.
		17	For punishment of Buggerie.
		19	For repeale of a Stat. for couey- ing of horses out of the realme.
		20	For punishment of Vagabonds, faining themselves Egyptians.
		21	For punishment of vnlawfull ta- king of fish.
	8	24	For repairing of Gaoles.
		3	Against carrying of sheepe ouer the sea aliue.
		8	For repeale of a branch of a stat. for the stature of hrfes in the Ile of Ely.
		9	For repeale of a branch of a stat. for the prices of barrells, and kilderkins.
		10	For Bowyers and the price of Bowes.
	13	2	For bringing in, and putting in execution Bulls from Rome.
		8	Against vsurie.
		9	For commission of Sewers.
		11	For maintenance of Nauigatio.
		14	For bringing of bowstaues into the Realme.
		21	That purueyors may take corne and victuals within five miles of Cambridge and Oxford, in certaine cases.
		23	For pauing a street without Al- gate.

For

King.	Yeare.	Chap.	Content.
		25	For continuance of certain statutes.
	14	5	For punishment of Vagabonds, and reliefe of the poore.
		11	For continuation, explanation, &c. of diuers statutes.
	18	3	For setting the poore people on worke.
		5	To redresse disorder in comen informers vpon penal lawes.
		7	For taking away Clergie from the offendours in Rape and Burghlarie, and an order for deliuering Clerkes conuict without purgation.
		9	For mending highwaies.
		10	For repairing bridges and highwaies neere Oxford.
	23	1	For due obedience vnto the King.
		9	Against logwood or blackwood.
		10	For Pheasants and Partridges.
		11	For Cardiffe bridge.
		12	For pauing without Algate.
	27	2	Against Iesuites and Seminarie Priests &c.
		7	For leuying issues lost by Iures.
		10	Touching informers.
		11	Against eating of flesh vpon daies forbidden.
		12	For giuing the oth to Vnder-sherifes, &c.
		13	For the following of huy & cry.
		14	For the true making of Male.
		23	Touching the haue of Chichester.
		24	For the sea banks in Norfolke.
		26	For the high way to the Ile of Shepe.

King.	Yeare.	Chap.	Content.
			Shepey.
	31	4	Against imbeseling the habiliments of warre.
		7	Touching Cottages & inmates.
		11	Touching restitution of possession.
		12	Touching the sale of Horses in open market.
	35	1.3	Of seditious Sectaries, & Popish Recusants.
	39	2	Of husbandrie and tillage.
		3	Of the impotent & able poore.
		4	Of Rogues & vagrant persons.
		11	Touching Longwood.
		16	For restraint of malting.
		19	Of Highwayes in the Weald.
		20	Against deceit in Northern clothes.
	43	2	Poore.
		3	Souldiers and mariners.
		7	Petite Trespassers.
James.	1	6	Rating of wages.
		7	Punishment of Rogues and Vagabonds.
		8	Stabbing.
		9	Restraining inordinate tippling.
		11	Marrying in the life of a former husband or wife.
		12	Against Coniuration.
		23	For Tanners, Shoemakers, &c; vsing the cutting of Leather.
		27	Against shooting in guns, and for preservation of Pheasants, Partridges, and Hares.
		29	For restraint of eating flesh in Lent, and on fish dayes.
		31	For reliefe of persons infected with the plague.
		4	Against Popish Recusants.

King.	Yeare.	Chap.	Content.
		5	To prevent dangers which grow by Popish Recusants.
		10	Of leuying charges to com- malefactors to prison.
		11	For preseruauon of Sea-fish.
		13	Against stealing Deere & conies.
		19	Repairing Nonesuch high-way.
		20	For clearing the passage by wa- ter from London to Oxford.
		22	Pauiug Drurie lane.
		23	For repaying of Chepstow bridge.
		24	For reedifying of a bridge at Vpton vpon Seuerne.
	4	2	For true making of wollen cloth.
		4	Against vtterance of Beere and Ale to Tiplers vnlicenced.
		5	For repressing of drunkenness.
	7	3	For the true imployment of mo- ney giuen for binding out of Apprentices.
		4	Against Rogues & Vagabonds.
		5	For ease in pleading against co- rentious suites prosecuted a- gainst Iustices of peace, and other officers.
		6	For administring the oath of al- legiance, and reformation of married women Recusants.
		7	Concerning clothing.
		10	For reformation of Alehouse keepers.
		11	Against vntimely hawking.
		13	Against stealing of Deere.
		20	Marsh grounds in Norfolk and Suffolke.
		23	Subsidie, & Fiftagath & Tent.



Now follow sundrie Enditements,
Presentments, and Processses.

The Stile of the Sessions.

Generalis Sessio pacis, tenta apud
Maidstone, in comitatu predict. pri-
mo die Octobris, Anno regni serenissi-
mi domini nostri Iacobi Dei gratia
Anglia, Francia, & Hybernia Regis, fidei defensoris
&c. 2. & Scotia 38. Coram T. W. armig. &
suis suis Custodibus pacis dicti Domini reg. ac
Iusticiarijs suis ad diversa felonias, transgressiones
& alia malefacta in dicto comitatu perpetrata au-
diendum & terminandum assignat.

*Enditements concerning Ecclesia-
sticall causes.*

For extolling the authoritie of the Pope.

Iuratores presentant pro Dño Rege,
qd I. S. de C. in comitatu pñ Clari-
cus, xx. die mensis Aprilis anno
regni serenissimi dñi nostri Iacobi
Dei gratia Angliæ, Franciæ, & Hy-
bernix Regis fidei defensoris, &c.
2. & Scotiæ 37. apud D. in comi-
tatu pñ scienter, consideratè, mali-
tiosè & directè, palam in pñsentia multor dict dñi reg. nñi
nunc subditor, affirmavit, & defendit auctoritatem Papæ
Roman.

Romani Ecclesiasticam in hoc regno Angliæ præsumptiue usurpatam, hijs expressis verbis Anglicanis sequentibus, viz. *I sweare by the blessed Masse, and will answere for our holy father the Pope of Rome, to the supreme head of the Church of England, in magnam derogationem regis autoritatis, & prerogative dicti dñi Regis, ac contra coronam & dignitatem suam, necnon contra sanctos diversorum statuta, in hñdi casu editorum & promissorum.* Et quod A. B. de D. prædicta in comitatu prædicto Warchamler, sciens ipsum I. S. dicta verba loquutum esse, ac dicti dicti Papæ autoritatem modo & forma ut præfertur, defendisse, ipsum I. S. apud D. prædictum postea, scilicet die dicti mensis Aprilis anno supradicto consolatum et & comfortavit, ex industria & ex proposito, & ad eam intentionem ut idem A. B. promoveret, & efferret prædictam dicti Papæ autoritatem usurpatam, in perniciosissimum aliorum exemplum, ac contra coronam & dignitatem dicti domini Regis nostri nunc, ac etiam contra sanctam diversorum statutorum in eiusmodi casu promissorum & editorum.

For absolving from the Kings obedience.

INquiratur pro domino rege, Si A. B. de C. in dicto comitatu Clericus, sexto die mensis Maij, anno regni Domini nostri Iacobi, Dei gratia Angliæ, Franciæ, & hybernæ Regis, fidei defensoris &c. 3 & Scotiæ 3. apud C. præfatam in comitatu prædicto, voluntarie & predictorie conatur est, & practicaui absolvere, persuadere, & seducere quandam Iohannam W. de C. prædictæ, in comitatu prædicto viduam, a naturali obedientia, & subiectione sua, quam eadem Iohanna erga dictum dominum nostrum regem gerere debet, ad obediendum prædictæ autoritati sedis Romane, tunc & ibidem proditoriæ præ se ferens & asserens se habere potestatem & facultatem id faciendi, & tunc & ibidem proditoriæ & cens eidem Iohannæ hijs Anglicis verbis sequentibus, *Whether Joane, you shall have a blacke soule, I will*

Precedents.

and you do not the lower temple the King (innuendo
dominum nostr. reg. nunc) and his heretics,
and your self, to the obedience of our mother
church the holie See of Rome: ac contra pacem dicti
domini nostri Regis coronam & regalem dignitatem su-
am, ac contra formam statuti in Parlamento dom. Eliz.
nuper Reg. Angliæ tento apud Westmonasterium in co-
mitatu Middlesexie, ann. regni sui vicefimo tertio in hu-
iusmodi casu prouisi ac editi.

For a Iesuite and his Receiuers.

Inquiratur pro domino Rege, Si E. C. nuper de S. in co-
mitatu predicto Clericus, natus apud S. pred. in Comi-
tatu predicto, atque infra annum iam proxime præteri-
tus factus & professus Iesuita per auctoritatem a sede
Romana derivatam, proditorie, apud S. predict. in co-
mitatu predicto, sexto die Iulij, anno regni dicti domini
nostri Iacobi, Dei gratia Angliæ, Franciæ, & Hiberniæ,
regis fidei defensoris &c. 3. & Scotiæ 38. a partibus trans-
marinis applicuit, & dicto sexto die anno supradicto, &
nonnullis alijs diebus tunc proximo sequentibus apud
S. predictam in comitatu predict. proditorie moram fe-
cit ac remansit: contra formam cuiusdam statuti in par-
lamento domini Eliz. nuper Reg. Angliæ tento apud
Westmonasterium in comit. Middlesexie anno regni sui
vicefimo septimo in huiusmodi casu prouisi & editi, ac
contra pacem dicti domini Regis, coronam & dignitatem
suam. Et si W. B. de S. predict. in dicto comitatu mercator,
fieri voluntarie, & felonice, postea, scilicet dicto sexto
die dicti mensis Iulij anno supradicto, predict. E. C. apud
S. predictam in comitatu predicto recepsit & comor-
tuit, dicto W. B. (ad tunc & ibidem ad largum & extra
pisonem existentem, ac præfat. E. C. huiusmodi Iesuitam
esse, tunc & ibidem) sciente & cognoscente. Contra for-
mam statuti predicti, ac contra pacem, coronam, & dig-
nitatem dicti domini reg. nostri.

For,

For saying and hearing of Masse.

Iuratores presentant pro domo Rege quod Io. R. nuper de C. in comitatu prædicti. Clericus, 8. die Aprilis, anno regni dicti dom. nostri Iacobi, Dei gratia Angliæ, Franciæ, & Hiberniæ Regis, fidei defensoris &c. 3. & Scotiæ 38. apud C. prædictam in comitatu prædicti, voluntarie dixit & celebravit vnam Missam, contra formam cuiusdam Statuti in Parlamento domin. Elizab. nuper Reg. Angliæ tento apud Westmonasterium in Com. Middlesex, anno regni sui vicelesimo tertio in hoc casu promissi & editi, & contra pacem dicti Domini Regis, coronam & dignitatem suam : & quod Maria B. de C. prædicta in Comitatu prædicto vidua, dicto 8. die Aprilis anno prædicto apud C. prædicti in comitatu prædicto interfuit præsens tempore dictæ celebrationis missæ prædictæ, ac eandem missam (sic ut præfertur dictam) adtunc & ibidem voluntarie audiuit contra formam statuti prædicti, ac contra pacem, coronam & dignitatem dicti domini Regis nostri.

For being absent from the Church.

Iuratores pro Domino Rege super Sacramentum suum presentant, quod A. B. nuper de B. in comitatu prædicto Armiger, qui 10. die Iulij, anno regni Domini nostri Iacobi Dei gratia Angliæ, Franciæ, & Hiberniæ, Regis, fidei defensoris, &c. 3. & Scotiæ 38. fuit ætatis 16. annorum & ultra, non accessit (anglicè *did not repaire*,) ad Ecclesiam suam parochialem de D. prædicta, nec ad aliquam Ecclesiam, capellam, aut vsualem locum communis præcationis, & ibidem moratus fuit tempore communis præcationis, ad aliquod tempus infra sex menses, tunc proxim. sequentes, sed abstinuit ab eisdem (Anglicè *hath forborne the same*) per spacium prædictorum sex mensium contra formam cuiusdam statuti apud Westmonast. in comitatu Middlesex. anno regni dom. Eliz. nuper Reg. Angliæ primo, pro vniformitat. communis præcationis editi & promissi, ac contra formam statuti anno regni

Precedents.

dictæ nuper reg. vicessimo tertio huiusmodi casu
& prouisi, ac in contemptum dict. dom. reg. nunc. &
contra coronam & dignitatem suas, &c.

*Against a Schoolemaster not licenced, nor resorting
to the Church, and against his maintainers*

Viresores presentant pro Domino Rege, quod K. M. de
in dict. comitatu Scholæ magister à secundo die Sep-
tembris, Anno regni domini nostri Iacobi, Dei gratia
Anglæ, Franciæ, & Hiberniæ Reg. fidei defensoris, &c.
& Scotiæ 39. vsq; nunc in domo mansionali cuiusdam
E. A. de I prædicta in comitat. prædict. vidue, ausus est, et
presumpsit erudire, & docere pueros dictæ E. A. ibidem
cum idem K. M. durante dicto tempore non accessit nec
intendit ad ecclesiam parochialem de I prædict. in co-
mitat. prædicto, nec ad ullam aliam capellam, aut vltra-
locum communium precationum sed se penitus per
totum tempus prædictum abinde absentauit nullam ha-
bens legitimam aut rationalem dictæ suæ absentiæ ex-
cusationem et cum idem K. M. non est per Episcopum
diocesis loci illius in quo sita est prædicta Ecclesia paro-
chialis de I prædicta, aut per eius loci ordinarium, licen-
cium, aut allocatus ad erudiendum et docendum: In
negotium dicti domini nostri regis contemptum, ac contra
formam statuti in Parlamento dom. Eliz. nuper Reg.
Anglæ (tento apud Westmonasterium in comit. Mid-
dlessex anno reg. sui vicessimo tertio) in huiusmodi
casu prouisi & editi. Et quod prædict. E. A. voluntariè in
domo sua prædicta per totum tempus prædict. custodiuit
& maintainit præfat. K. M. modo et form prædict. eru-
dientem et docentem sciens ipsum K. M. modo & forma
prædict. se absentasse, in contemptum dict. dom. regis, ac
contra formam statuti prædicti.

For perjury in a Deposition.

Viresores presentant pro Domino Rege, quod E. F.
de G. in comitatu prædicto (Tasso, 24. die Iulij, ann.
T t regni

regni domini nostri Jacobi, Dei gratia Angliæ, Franciæ
et Hybernæ Regis fidei defensoris, &c. 3. et Secus
apud M. in comitatu prædicto coram A. B. C. D. et E.
F. Armigeris Commissionarijs (virtute Brevis
domini Regis de commissione, prædictis A. B. C. D.
E. F. directi et extra curiam Wardorum, et Libera-
tionum dicti Domini Regis, apud Westminster in co-
mitatu Middlesexie, præsentia emanantis) pro examina-
tione quorumcumque testium tam ex parte cuiusdam
L. de M. prædicti in comitat. prædict. tunc et
tunc quam ex parte H. M. de M. in dict. comitat. prædict.
defendentis, in quadam causa (sive materia) inter
ipsos L. et H. M. tunc in dicta Curia Wardorum et Libera-
tionum controuersa, et ibidem dependente in
causa pro titulo vnijus messuagij cum pertinentijs
prædicta in dicto comitatu personaliter constituta,
tunc et ibidem existens testis productus per prædictum
L. ad testificandum et deponendum in causa prædicta
ex parte ipsius L. et iuratus per Commissionarios præ-
dictos, ad veritatem dicendam super articulis inter-
rogatorijs ei per dictos Commissionarios, ad tunc et ibi-
dem ministrandis, septimo articulo interrogatus
ad tunc et ibidem per dictos Commissionarios ex po-
te prædicti L. ministrato dixit, et super Sacramen-
tum suum prædict. affirmavit et deposuit, prout ista
Anglicis verbis immediate sequitur viz. *To the y.
tergetoz hee saith by vertue of his oath, that
the said messuage was neuer occupied by the said
M. the defendant, prout per dictam depositionem præ-
dictæ E. F. inter alia per præfatos Commissionarios in
dictam curiam Wardorum et Liberationum certis
et missam, ac ibidem de recordo adhuc remanentem,
plene apparer: vbi reuera et facto dictum messuagium
diu occupatum fuit p. prænominatum H. M. defen-
tem. Et sic idem E. F. dicto vicefimo quarto die
anno supradicto apud M. prædictam in dicto comitat.
coram prænominatis A. B. C. D. et E. F. (commissio-
dicti domini regis sic vt præfertur existentibus) volun-
arie & corrupte, perituri commisit voluntarium &
supremum, contra formam diuersorum statutorum in*

For killing a man by witchcraft.

Procurator presentant, pro domino Rege, quod Sara B. de C. in comitatu predicto vidua, vicesimo die Augusti Anno regni domini nostri Iacobi Dei gratia Angliæ, Franciæ et Hyberniz Regis, fidei defensoris, &c. 3. et tempore 38 ac diuersis alijs diebus post dict. 10. diem quasdam artes detestandas, Anglice vocatas *witchcraft* et *hexcraft*, nequiter et felonice praticauit, et exercuit contra C. predict. in comitatu predicto, in, super et contra personam Iohannem. N. de C. predict. in dicto comitatu habitantem. per quas quidem artes dict. I. N. a predict. 20. die Augusti, anno supradicto vsque 24. diem predict. mensis Augusti, anno supradicto periculosissime ac mortaliter agrotabat & languebat, Ac eodem 24. die Augusti, anno supradicto idem I. N. per artes predictas apud C. predict. in dicto comitatu obiit: et sic Iuratores predicti testantur quod eadem Sara ipsum Iohannem N. apud C. predictam modo et forma supradictis, ex malitia sua perconspirata voluntarie, diabolicè, nequiter, & felonice per artes predictas occidit ac interfecit, contra pacem domini regis nostri, ac contra formam statuti in parliamentum dict. dom. Reg. nostri (teneto apud West. In com. Melferiz, anno reg. sui predicti 1.) in huiusmodi casu prout ac editi.

For bewitching a Horse.

Procurator pro domino Rege, si Sara B. de C. in dicto comitatu vidua 10. die Augusti, Anno regni dicti domini nostri Iacobi, Dei gratia Angliæ, Franciæ & Hyberniz Regis, fidei defensoris, &c. 3. & Scotiæ 38. quasdam artes nequissimas (Anglice vocat. *Incantamentis* & *Charmes*) apud C. predict. in comitatu predicto

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maliciosè & diabolicè, in, super, & contra quendam
quum, coloris albi, pretij quatuor libr. de bonis & cano-
lis eiusdem I. S. de C. prædicta, in dicto comitat. gen-
rosi existentem exercuit, et praticauit. Per quod
equus dict. I. S. 20. die prædict. apud C. prædict. omnino
impeioratus est, & vastatus: contra pacem dicti domini
reg. ac contra formam statuti in huiusmodi casu prom-
ac editi.

For fighting in the Churchyard.

Inquiratur pro domino Rege, Si G. F. de L. in dicto
comitatu generosus, octauo die Septemb. anno regni
dicti domini nostri Iacobi, Dei gratia Angliæ, Franciæ
& Hybernæ Regis, fidei defensoris, &c. 3. & Scotiæ 1.
in cemiterio eccl. parochialis de L. prædict. in dicto C.
malitiosè extraxit pugionem suum in quendam I. S. de
L. prædict. **Proman**, ea intentione ad percutiendum præ-
dict. I. S. cum dicto pugione, contra pacem dicti domini
regis nostri nunc, ac contra formam statuti in Parla-
mento dom. Edw. nuper Regi Angliæ sexti (teno
Westmonasterium in comitat. Middlesexiz anno regni
dicti nuper domini reg. 5.) in huiusmodi casu prom-
ac editi.

For a Burglarie in a Church.

Iuratores præsentant pro domino rege, quod A. B. C. in comitatu prædicto **Hatler**, primo die Septem-
bris, anno regni dicti domini nostri Iacobi, Dei gra-
tia Angliæ, Franciæ, & Hybernæ regis, fidei defensoris
&c. 3. & Scotiæ 39. vi et armis ecclesiam parochialem
de C. prædicta in dicto comitatu, felonice & burglarie
terrefregit et intrauit noctanter. viz. inter horam decimam
et vndecimam post meridiem eiusdem diei, ac cum
calicem argenteum (Anglicè vocat. à **Communion**
Cup) ad valentiam 60 solidorum, de bonis & cano-
parochianorum de C. prædicta ad tunc existentem

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in ecclesia, & tunc ibidem inuentum, felonice cepit,
deportauit, contra pacē dict. dom. reg. nostri nunc co-
munem et dignitatem suam.

**Enditements and Presentments, concer-
ning Lay causes.**

*For petite treason in a servant, and felonie in
in the procurers thereof.*

Memores pro Dom. rege presentant, quod A. B. de C.
in comitatu predicto Gloucestria, nuper seruans B. D. de
predicta, in dict. com. Gloucestria, decimo die Septem-
bris, anno regni dicti Doimini nostri Jacobi, De. gratia
Regis Francie, & Hybernice Reg. fidei defensoris, &c.
24. Scitiz 39. in domo mansionali predict. B. D. apud
Cordist. in com. predict. vi & armis, videlicet cum gla-
dio & pugione districtis ad valentiam 10. solidorum
eundem A. B. tunc et ibidem in manibus suis tenu-
it) in pronomiatum B. D. tunc magistrum suum
eum & ibidem in pace Dei & dicti Domini Regis ex-
cessum, voluntarie et ex malicia sua premeditata in-
ibidem fecit, & eundem B. D. cum magistrum suum, ad
eundem cum dicto gladio felonice & proditorie su-
per caput suum fortiter & valde percussit, ita quod
dict. idem, caput ipsius B. D. tunc magistri sui tunc ibi-
dem duas partes scidit, dans ei plagam mortalem, vi-
de corpus dict. B. D. immeditate ibidem ad terram ceci-
dit, & dictus B. D. instanter ibidem de plaga predict.
morsuus est. Et sic prefat. A. B. apud C. predict. ex mali-
cia sua premeditata, eundem B. D. magistrum suum pre-
dict. modo & forma predictis, voluntarie, nequiter, felo-
niciter & proditorie interfecit, contra pacem dict. do. no.
stri nunc coronam & dignitatem suam. Et quod qui-
dam I. S. de C. predicta in dict. com. Gloucestria, ante prodi-
tionem predict. (per prefat. A. B. sic ut prefertur volun-
tarie perpetrata & comissa) viz sexto die Sept. an. su-
per dicto, eundem A. B. apud C. predict. in com. predict. ad

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prodicionē präd. in forma präd. perpetrandē & cōmī-
tendam, felonice consuluit, excitauit, & procurauit, con-
tra pacem dicti dom. nostri reg. nunc, ac contra coronam
& dignitatem suam.

*For murder of a bastard childe, against the mother
and midwife (as principals) & against the re-
puted father as accessarie before, and against
others as accessaries after.*

Iuratores pro domino rege presentant, quod H. M. nu-
per de K. in comit. präd. vidua, grauida existens cum
quodam infante viua, 24. die Maij, anno regni dicti do-
mini nostri Iacobi, Dei gratia, Anglię, Francię, & Hy-
berniz Regis, fidei defensoris &c. 2. et Scotiz, 37. apud
K. präd. in com. präd. Dei providentia parvula
peperit unam prolem femellam viuan: posteaque qua-
dam Iana. S. nuper de W. in dicto comitat. vidua apud K.
präd. in comitat. präd. vi et armis, ex malitia su-
præcogitata (dicto 24. die Maij ann. supradicto, circuli-
ram 11. ante meridiem eiusdem diei) per consiliū, ad-
datum, & procuratorem prædictæ H. M. ac in presens
ipsius H. M. in prædict. prolem femellam viuan inibum
fecit, & cum quodam cultello (ad valentiam unius dena-
rij) quem eadem Iana tunc in manu sua dextra tenu-
it, guttur ipsius prolis femellæ ad tunc & ibidem felo-
nice scidit, dans eidem proli femellæ quandam plagam
mortalem in gutture suo prædicto, de qua quidem plaga
mortalis proles femella prædicta apud C. prædict. in com. præ-
dict. ad tunc & ibidem instantè obiit & quod prædict. H.
Madunc & ibidem felonice fuit præsens, confortans,
et auxilians ad prædict. prolem femellam in forma præ-
dict. interficiendam. Et sic præfata H. M. & Iana præfata
prolem femellam ex malitia sua præcogitata, felonice
voluntate interfecerunt, et mundaerunt, contra pa-
cem dicti Domini Reg. coronam et dignitatem suam. Et
insuper Iuratores prædicti presentant pro dicto Do-
mino Regi

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Rege quod Gregorius P. nuper de K. predicti in dicto comitatu *Proman*, 19. die Maij anno regni dicti domini secundo, ac aduersis alijs diebus & vicibus ante feloniam & murdrum. prredictum in forma predict. perpetr. apud K. prredictam, in comitatu prredicto malitiose & felonice consuluit, mandauit, procurauit, et abertuit prredictam H. M. ad prredictum murdrum voluntarium faciendum, ac ad interficiendum & murdrandum dict. prolem femellam, contra pacem dicti domini regis. Et ulterius, quod O. P. & A. B. de K. prredicta in comitatu prredicto *Spinster*, post murdrum & feloniam prredictam in forma präd. facta, scientes prafatas H. M. & lapam S. feloniam & murdrum prredict. in form. predict. fuisse & perpetrasse, ipsam tamen H. M. apud K. prredict. in comitatu prredicto (17. die dicti mensis Maij, anno supradicto, felonice receptauerunt & cõsortauerunt, contra pacem dicti domini Regis nunc, coronam & dignitatem suas.

For wilfull paysoning.

Virescentes pro domino Rege presentant, quod H. H. de Cin in Comitatu prredict. *Proman*, secundo die Decembris, anno regni dicti domini nostri Iacobi, Dei gratia Angliæ, Franciæ, & Hyberniz Regis fidei defensoris, de a. Scotiz tricesimo octauo, apud C. prredictam in comitatu prredicto, in domo mansionali (ibidem cuiusdam W. B. nuper de C. prredicta, in dicto comitatu *Proman*, et malicia sua prapensa & prapocitata, voluntarie & felonice porrexir, ac dedit in catillo quodam eidem W. Rad edendum quendam olera (Anglice vocata *Boe*) ex cicuta venenosissima, & alijs herbis virulentis correctet composita, quæ quidem olera prredictus W. B. tunc ibidem cum cocleari (quod in manu sua dextra tenuit) comedit, vnde prredictus W. B. statim postea exporabat, ac a prredicti. secundo die, anno supradicto, in dicta domo sua apud C. prredictam languebat, vsque finem diem dicti mensis Decembris anno supradicto

T 4

quo

Precedenti.

quo quidem die, anno supradicto, predictus W. R. ex dicto esu olerum predictorum, in dicta domo suo apud C. predictam in dicto comitatu interfuit. Et sic iuratores predicti presentant, quod predictus T. H. prænominatum W. B. apud C. predictam in comitatu predicto, modo & forma supradictis, ex malitia sua prægogitata voluntarie & felonice veneno predicto interfecit, ac medrauit, contra pacem dicti dom. Reg. nunc, ac contra formam statuti in Parlamento dom. Edwardi nuper Regis Angliæ lenti (tenti apud Westmonasterium in com. Middlesex. anno regni sui primo) in huiusmodi casu prouisi editi.

For a Murder committed by two:

Iuratores pro domino Rege presentant, quod A. B. nuper de C. in dicto comitatu **Blacksmith.** & D. E. de C. predicta in Comitatu predict. **Butcher,** septimo de Septembris, anno regni dicti domini nostri Iacobi, Dei gratia Angliæ, Franciæ, & Hiberniæ Regis fidei defensoris, & secundo, & Scotiæ tricesimo octauo, vi & annis ex malitia sua premeditata, in quendam F. G. nuper de B. in dicto com. **Devon,** apud B. predictam in comitatu predicto, in quodam loco ibidem (vulgariter nuncupato **the Bowling place**) ad tunc & ibidem in pace Dei & dicti domini regis existentem, insultum fecerunt, & prefatus A. B. cum quodam gladio districto ad valentiam quinque solid. quem ipse in manibus dextra ad tunc & ibidem tenuit, ipsum F. G. super faciem suam voluntarie & felonice tunc ibidem percussit, & eo ipso ictu dedit eidem F. G. quandam plagam mortalem, in longitudine trium pollicium, & in profunditate quinque pollicium & dimid. de qua quidem mortali plaga, predict. F. G. tunc ibidem instanter & immediate obiit. Et ulterius, quod predictus D. E. cum quodam baculo ad valentiam vnius obuli (quem ipse in manibus suis ad tunc ibidem tenuit) ipsum F. G. ad tunc & ibidem voluntarie & felonice percussit super caput illi
dam

Precedenti.

Ans eidem F.G vnam aliam plagam mortalem in dicto capite, in longitudine trium pollicium, & in profunditate duorum pollicium, vnde idem F.G de plaga vltimè prædicta obiisset, si non obiisset de lectu illo priore prædict. quem prædictus A.B. ei primo dederat. Et sic iuratores prædicti dicunt quod prenominati A.B. & D. E. dicto septimo die Septembris anno supradicto apud prædictam in prædicto loco (vocato the Bowling-place) prædictum F.G. modo & forma prædictis, ex malitia sua præcogitata, voluntarie & felonice intersececerunt & murtherauerunt, contra pacem dicti dom. regis, ac contra coronam, & dignitatem suam.

For killing a man by Chancemeidley.

Iuratores præsentant pro domino Rege quod A.B. de C. in dicto com. *Sougelster*, decimo sexto die Septembris, anno regni dicti dom. nostri Iacobi, Dei gratia Anglie, Francie, & Hibernie reg. fidei defensoris. &c. secundo. & Scotie tricesimo octauo apud C. prædict. in comitat. prædicto, quendam E.F. nuper de C. prædictam, in comitat. prædicto *Gwester*, (cui tunc ibidem fortuito & casu obuiam venit) contumeliosis verbis laceffiuir, ac in eundem E.F. tunc & ibidem, in pace dei ac dicti domini regis existentem, vi & armis insultum fecit, & ventrem dati E.F. tunc & ibidem cum baculo longo, cuspide præcuta capitato Anglice vocato a *long sharpe picked staff*) quem idem A.B. tunc ibidem in manibus suis tenuit, felonice pupugit & perfodit, dans eidem E.F. vulnus mortale in dicto ventre suo, latitudinis vnus pollicis, & profunditatis septem pollicium, de quo quidem mortali vulnere idem E.F. tunc ibidem instanter obiit ac iuratur: contra pacem dicti domini reg. nunc & contra coronam & dignitatem suam.

For

For pulling out of a man's eyes.

Iuratores pro Domino Rege presentant, quod A. B. de C. in dict. comitatu **Uttter**, nono die Septembris, Anno Regni dicti domini nostri Iacobi, Dei gratia Anglie, Francie, & Hyberniz Reg. fidei defensoris, &c. a. & b. tiz tricesimo septimo, in quodam loco apud C. pradic. in comitat. pradic. (vocato **le Dene**) vi & armis in quodam D. E. de C. pradic. in comitatu predicto **Proem**, in pace dicti domini reg. tunc ibidem existentem insultum fecit, ac tunc et ibidem ex malicia sua preceogit, digitis, et vnguibus digitorum ipsius A. B. oculo ipsius D. E. felonice effodit ac eruit, contra pacem dicti domini regis nostri, coronam & dignitatem suam, ac contra formam cuiusdam statuti in Parliament. domini reg. Henrici olim Reg. Anglie quarto, tento apud Westmonasterium in comit. Middlesex anno reg. sui quinto, in huiusmodi casu prouisi & editi.

For the Rape of a woman child, under ten years of age.

Iuratores pro Domino Rege presentant, quod G. D. de B. in comitatu predicto **Wilteterman**, tertio die Iulij, anno regni dicti domini nostri Iacobi Dei gratia Anglie, Francie, & Hyberniz Regis fidei defensoris, &c. secundo, & Scotie tricesimo septimo, apud B. pradic. in dict. comitatu (in domo mansionali ibidem cuiusdam A. S. **Wilteter**) vi et armis in quodam M. N. de B. pradic. in dicto comitat. puellam, infra etatem decem annorum tunc existentem, insultum fecit, ac tunc & ibidem, eandem M. N. felonice ac carnaliter cognouit ac eandem M. N. nequiter abusus est, contra pacem dicti dom. Reg. nunc, ac contra formam statuti in Parlamento domini Reg. Eliz. tento apud Westmonasterium in com. Middlesex. anno dicti reg. sui decimo octauo, in huiusmodi casu prouisi ac editi,

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For the rape of a maid, about ten yeares old.

Prætores præsentant pro domino rege, quod B. C. de E. in dicto comitatu Tenuer, quinto die Octobris anno regni dicti domini nostri Iacobi, Dei gratia Angliæ, Franciæ & Hybernæ Regis fidei defensoris &c. secundo, & Scotiæ tricesimo octavo, apud E. prædict. in dicto comitatu in quodam loco ibidem (vocalo la Bofur) vi et armis in quandam A. K. de E. prædict. in comitatu prædicto virginem, ætatis sexdecim annorum, tunc ibidem in pace Dei & dicti Domini regis existentis, insulsum fecit, ac tunc & ibidem eandem A. contra voluntatem ipsius A. felonice rapuit, et carnaliter cognovit, contra pacem dicti domini Regis nunc, ac contra formam cuiusdam statuti in Parlamento dom. Edwardi olim regis Angliæ primi, tento apud Westmonasterium in com. Mid. anno regni sui 13. in huiusmodi casu provisi & editi.

*For taking away a widow (against her will.
that hath lands.*

Prætores præsentant pro domino rege, quod A. B. de C. in dicto comitatu Dingtonman, secundo die Aprilis, anno regni dicti domini nostri Iacobi, Dei gratia Angliæ, Franciæ, & Hybernæ regis, fidei defensoris, &c. secundo, & Scotiæ tricesimo septimo, vi et armis in domum mansionalem cuiusdam H. B. de C. prædict. in copicat. prædict. vidue, intra parochiam de C. prædict. in com. præd. intrauit (quæ quidem H. B. cum seiscita fuit in dominico suo vt de feodo, de & in diuersis terris & tenementis in C. præd. in com. prædicto, clari annui valoris decem librarum ultra omnes reprisas existentibus) ac immediate postea, viz. dicto secundo die Aprilis anno supradicto, idem A. B. præd. H. B. tunc ibidem in dicto domo sua in pace Dei ac dict. dom. reg. existentem, ex dict. domo sua mansionali contra voluntatem ipsius H. B. il. legitime

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legitimo ac felonice extraxit, eripuit, & adduxit, ac eandem H.B. postea scilicet 3. die dicti mensis Aprilis. anno supradicto, in ecclesia parochiali de C. predicta in com. predicta cepit in uxorem suam, ubi idem A.B. dicto tempore extractionis & abductionis predicta non clamavit, nec clamare potuit, eandem H.B. tanquam Wardam suam aut tanquam nativam suam: In magnam pacis dicti dom. reg. nunc perturbationem, ac contra formam cuiusdam statuti in Parlamento Dom. Hen. nuper regis Anglie septima, tento anno regni sui tertio, in huiusmodi casu provisi ac editi.

For Buggerie.

In Vratores pro domino rege presentant, quod A.B. nuper de C. in dicto comit. clericus, & alienigena in civitate Rom. Italie natus, x. die Martij, vi & armis, apud C. predicta in comitatu predicto, anno regni domini nostri Iacobi Dei gratia Anglie, Francie, & Hibernie Regis, fidei defensoris, &c. secundo, & Scotie tricesimo octavo in quendam I. S. de C. predicta in dicto comitat. puerum masculum (etatis non amplius quindecim annorum, ac tunc ibidem in quodam loco vocato le *Arbye*, in pace dei & dicti domini regis existentem) insultum fecit, ac cum dicto I. S. puero predicto. sceleratissime, felonice, ac contra nature ordinem, tunc ibidem rem habuit veneram, dictumque puerum carnaliter cognovit, ac sic cum eodem puero peccatum illud horribile, ac Zodomiticum Anglice vocatum *Buggerie*, ad tunc ibidem felonice commisit, ac perpetravit, contra pacem dicti dom. reg. nostri, ac contra formam statuti in huiusmodi casu ante hac provisi ac editi.

For Burglarie of a dwelling house.

In Vratores pro domino rege presentant, quod T. S. de W. in dicto comitatu *Cattier* quarto die mensis Februarij, anno regni dicti domini nostri Iacobi, Dei gratia

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gratia, Angliæ, Franciæ, & Hybernæ Regis fidei defensoris &c. secundo, & Scotiæ tricesimo octavo, vi & armis demum mansionalem cuiusdam N.G. de W. prædict in dicto comitatu Butcher, noctanter, viz. (inter horas decimam & undecimam post meridiem eiusdem diei) quadam Iohanna vxore ipsius N.G. tunc in eadem domo in pace dei & dicti domus Regis existente, felonice & Burglariter fregit & intrauit, & viginti libras legalis monete Angliæ de bonis prædicti N.G. in quodam abaco in dicta domo existentes inuentas, tunc & ibidem felonice cepit & asportauit, contra pacem dicti domus Regis nunc, coronam & dignitatem suam.

For burning of a house by day.

Yratores pro Domino Rege præsentat, quod A.B. nuper de C. in comitatu prædicto ~~Butcher~~ ^{Walsingham}, octauo die mensis Iulij anno regni dicti domini nostri Iacobi, Dei gratia Angliæ, Franciæ, & Hybernæ Regis fidei defensoris, &c. secundo, & Scotiæ tricesimo septimo, ad domum mansionalem F.F. de C. prædicta in comitatu prædicto generosi, in C. prædict, in dicto comitatu existentem, vi et armis inter horas sextam et septimam ante meridiem eiusdem diei accessit, et cum vna libra pulueris tormentarij ad valentiam duodecim denariorum, & fece quadam ignita, que dictus A.B. tunc ibidem in manibus suis tenuit, ignem in quodam fasciculo straminis tunc in dicta domo existentis ex malitia sua præcogitata felonice accendit, unde eadem domus tunc ibidem totaliter cremata & combusta fuit (eodem E.F. tunc in pace dicti domini regis in dicta domo sua existente) & sic prædictus A.B. dicto octavo die Iulij, anno supradicto apud C. per prædictam, domum mansionalem prædicti E. F. prædictam, modo & forma prædictis, voluarie ex dicta malitia sua præcogitata, et felonice incendit et combussit, contra pacem dicti domini Regis nostri, ac coronam et dignitatem suas.

For

For a Robbery in the highway.

Inquiratur pro domino Rege, Si A. B. de C. in dicto comitatu **Partner**, sexto die mensis **Ostobris**, anno regni dicti domini nostri **Iacobi**, Dei gratia Anglie, Francie, & Hyberniz Regis, fidei defensoris, &c. secundo, & Scotie tricesimo octavo, vi & armis, viz. cum gladio & pugione (ad valentia decem solidorum) districtis, inter horas septimam & octavam ante meridiem eiusdem diei in alta via regia iuxta quendam locum (vocatum **Gatehill**) infra parochiam de F. in comitatu predicto, in, & super quendam I. S. de B. in comitatu predicto **John Chapman**, tunc et ibidem in pace Dei, ac dicti dom. Regis existentem insultum fecit, et ipsum I. S. tunc ibidem cum dicto gladio percussit, et vulneravit, & viginti solidos legalis monete Anglie numeravit in crumena ipsius I. S. existentes, de bonis & catallis predicti I. S. ad tunc & ibidem inuentos, a persona ipsius I. S. tunc & ibidem violenter & felonice cepit & asportavit in magnam predicti I. S. terrorem, ac contra pacem dicti dom. Regis, coronam & dignitatem suas.

For the taking of a purisse privilie from the person.

Iuratorum pro Domino Rege presentant, quod I. S. nuper de A. in dicto comitat. **Caister** sexto die Iulij, anno regni dicti domini nostri **Iacobi** dei gratia anglie, Francie, & Hyberniz Regis fidei defensoris, &c. secundo, et Scotie tricesimo septimo, apud A. predict. in com. predict. in quodam loco ibidem, vocato **the Elmes**, vi et armis in quendam R. M. de A. predict. in com. predict. **Robert**, insultu fecit, & viginti solid. in pecunijs numeratis in crumena ipsius R. M. tunc & ibidem existentes inuentos, de predict. crumena ipsius R. M. tunc & ibidem a persona ipsius R. M. (clam & inscite ipso R. M.) felonice cepit & asportavit contra

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contra pacem dicti dom. regis. ac contra coronam, & dignitatem suam.

*Against the stealer of a horse, and his
after accessory.*

Visitores pro domino Rege presentant, quod A. B. nuper de C. in dicto comitat. *Selber*, 29. die Augusti anno regni dicti Domini nostri Jacobi, Dei gratia Angliæ, Franciæ, & Hybernæ Regis fidei defensoris, &c. secundo & Scotiæ tricesimo octavo, vi et armis, quoddam stallum, in domo mansionali cuiusdam I. S. infra parochiam de C. prædict. in comitat prædicto, existens fregit, intravit, & unum equum spadonem Anglice vocatæ *Geßting*, coloris albi, pretij sex librarum, et unam equam coloris nigri pretij 30. solid. de bonis & catallis ipsius I. S. tunc ibid. existentes inventos felonice cepit et adduxit contra pacem dicti dom. Reg. coronam & dignitatem suam. Et quod K. H. nup. de C. præd. in comit. prædicto *Doylecourser*, sciens præfatum A. B. feloniam prædictam apud C. prædict. modo et forma præd. fecisse et perpetrasse. eundem tamen A. B. apud C. præd. in comit. prædicto tricesimo die dicti mensis Augusti, anno supra dicto felonice recepit, & hospitio excepit, post feloniam prædictam sic per ipsum A. B. ut præfertur factam & commissam contra pacem dicti domini nostri reg. nunc & contra coronam, ac regiam dignitatem suam.

*Against a servant that stealeth his masters
goods, committed to his keeping.*

Visitores presentant pro domino rege, quod cum A. B. de C. in dicto comitatu *Merter*, vicefimo die Septembris anno reg. Domini nostri Jacobi Dei gratia Angliæ, Franciæ, & Hybernæ Reg. fidei defensoris, &c. secundo, & Scotiæ tricesimo octavo in domo mansionali ipsius A. B. apud C. præd. in comit. prædicto deliberasset

ser et quidam E. F. de C. predicti in dicto comit. dederunt tunc seruienti ipsius A. B. per vno anno integro retentis ac etatis 10. annorum existenti, decem libras in pecunijs numeratis de bonis ipsius A. B. ea intentione, vt id E. F. eisdem saluo custodiret, ad vsum predicti A. B. tunc magistri sui : idem E. F. dicto vicesimo die Septembris anno supradicto (apprenticius dicti A. B. tunc non existens) apud C. predicti in comitatu predicto, a dicto magistro suo vna cum pred. decem libris dicti A. B. tunc magistri sui malitiose & felonice discessit, abiit, & auferri, ea intentione, ad furandum dictas decem libras, contra fiduciam in eo per prefatum, A. B. tunc magistrum suum repositam & collocatam, & ad inde dictum A. B. magistrum suum predictum defraudandum : contra pacem dicti domini Regis, ac contra formam diuersorum statutorum huius reg. Anglix in huiusmodi casu prouisorum et Editorum.

Against the stealer of a Cow, and his
Accessorie before.

Iuratores pro domino rege presentant, quod A. B. de C. in dicto comitat, **Schoomaker**, primo die Iulij, anno Regni domini nostri Iacobi Dei gratia Anglie, Francie, et Hyberniz Regis fidei defensoris, &c. secundo, & Scoeiz tricesimo septimo, in quodam loco infra parochiam de C. predicta, in comitatu predicto vocato **Cotepasture**, vi et armis, clausum cuiusdam I. S. & D. in comitatu predicto **Proman**, fregit et intravit, et quandam vaccam, coloris nigri, pretij 40. solidorum, de bonis & catallis pedler. I. S. tunc ibidem existentem inuentam felonice cepit, furatus est, & abduxit, contra pacem dicti domini regis nunc coronam & dignitatem suas Et quod quidam G. H. de C. predicta in dicto comitatu **Butcher**, ante feloniam predictam, scilicet eodem primo die Iulij anno supradicto, eundem A. B. apud C. predictam in comitatu predicto, ad feloniam predictam faciendam et perpetrandam, malitiose

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ad felonice excitavit, persuasit, & procuravit, contra pacem dicti domini Regis coronam & dignitatem suam.

*For hunting by night in a Parke, and for
concealing the same.*

Yratores pro domino rege presentant, quod secundo die Augusti, anno regni domini nostri Jacobi, Dei gratia Angliæ, Franciæ, & Hiberniæ Reg. fidelis defensoris, &c. secundo, & Scotiæ tricesimo octavo, inter horas decimum & undecimam in nocte eiusdem diei A. & C. in dicto comitatu generosus, D. E. & G. H. de P. in dict. comitatu, Husbandmen, aggregatis sibi nonnullis alijs malefactoribus ignotis, ad numerum sex persignarum, vi & armis, videlicet, prelongis baculis, arcubalistis, & sagittis, clausum & parcum dicti domini Regis nostri apud O. in dicto comitatu fregerunt, & intraverunt, & vnum par damarum dicti domini Regis Angliæ vocatum, a byace of Buckes, in dicto parco ad tunc & ibidem depascent. et inveniunt illegitime venisse, ac cum duabus sagittis ex dictis arcubalistis emissis, & sagittatis ad tunc & ibidem occiderunt, & sparserunt, contra pacem dicti domini regis; ac postea, die sequente, videlicet tertio die dicti mensis Augusti anno supradicto, T. S. tunc parcarius dicti domini Regis dicti sui parci de O. preed. in comitatu veniens, informavit apud C. predictam T. W. vnum Iusticiariorum pacis dicti Domini Regis in comitatu supradicto, de illicita venatione predicto modo & forma predictis facta, qui quidem Iusticiarius superinde Warrantum suum in scriptis, postea videlicet, dicto tertio die Augusti, anno supradicto direxit cuidam K. M. vni Constabulariorum Hundredi de S. in tenementum predicto (in quo quidem hundredo sita sunt predictæ villæ de C. & E.) eo tenore, ut idem Constabularius arrestaret prenominos A. B. D. E. & G. H. & eosdem coram eodem Iusticiario duceret & haberet

Vu ad

Precedents.

ad eos de dicta illicita venatione examinandum : Et quod dicti A.B. D.E. & G.H. postea, scilicet dicto tertio die Augusti anno supradicto, coram dicto Iusticiario pud C. prædictam in comitatu prædicto per Constabularium prædictum virtute dicti warranti adducti, ac per eundem Iusticiarium per suam discretionem de dicta illicita venatione, & de factoribus in ea parte examinati existentes, prædicti tamen venationem voluntarie & felonice conclauenerunt, & eorum quilibet voluntarie & felonice conclauit, contra pacem dicti domini regis coronam & dignitatem suas, necnon contra formam cuiusdam statuti in Parlamento Domini Henrici nuper regis Angliæ 7. tento, anno regni sui primo, in huiusmodi casu prouisi ac editi.

*For a wilfull Rescousse of one imprisoned
in the stocks for felonie.*

Iuratores pro domino Rege præsentant, quod videlicet die lunij, anno regni dicti domini nostri Iacobi Dei gratia, Angliæ, Franciæ, & Hiberniæ Regis fidei defensoris, &c. secundo, & Scotiæ tricesimo septimo, quidam A.B. nuper de C. in dicto comitatu Gloucestre, apud C. prædicti in com. præd. captus est & arrestatus per E.F. de Caput in comitatu prædicto Preoman, pro suspitione cuiusdam felonie, viz. vnus vaccæ ipsius E.F. per præfat. A.B. hinc, vt idem E.F. tunc assererat, capta & abducta, & quod idem A.B. immediate postea traditus est per præfat. E.F. cuidam H.M. tunc constabulario hundredi in quo sita est villa de C. prædicti. qui quidem constab. pud C. prædictam in comitatu prædicto, postea, viz. dicto 10. die lunij anno supradicto, eundem A.B. in pectus in cippis ibidem posuit, ad eum saluū ibidem cediendum donec idem constabularius parare posset melius ad ducendum eundem A.B. coram aliquo Iudice priorum pacis dicti domini regis in comitatu prædicto

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vinandum ac quod postea, scilicet dicto xx. die anno su-
pradicto, quidam G. L. de D. p[re]dict. in comitatu p[re]dicto
Clouet, apud C. p[re]dictam in dicto comitatu, vi et armis
cippos p[re]dict. effregit, ac eundem A. B. tunc ibidem existi-
tem, ex eisdem custodia, p[ri]sona, & cippis felonice cepit,
eripuit, & rescussit, ac ad largum ire et euadere permittit,
contra pacem dicti dom. nostri reg. coronam & digni-
tatem suas.

For the breaking of prison.

Inquirator pro domino Rege, si W. H. de C. in comitatu
p[re]dict. **Pesman**, vnus constabulariorum dicti domini
Regis hundredi sui de T. in comitat. p[re]dicta, in quo qui-
dam hundredo sita est villa de C. p[re]dicta, quendam R. B.
super de C. p[re]dicta in Comitatu p[re]dicto **Capitulum**, xx.
de Septembris, Anno regni dicti domini nostri Iacobi,
Dei gratia Anglię Francię et Hibernię reg. fidei defensor.
m. & c. et Scotię 38. apud C. p[re]dict. in dicto comitatu
pro suspicionē cuiusdam felonie, viz. pro morte cuiusdam
M. N. apud H. in com. p[re]dict. felonice interfecti, cepit et
arrestauit: Et ea de causa idem R. B. sub custodia dicti
W. H. constabularij, in p[ri]sona dicti dom. reg. apud C. p[re]d.
in comitatu p[re]dict. postea scilicet dicto xx. die Septembris
anno supradicto fortiter & duriter detentus fuerit, ac idē
tunc ibidem sic detentus, postea, viz. dictis die et an-
no C. p[re]dict. in comitatu p[re]dict. vi & armis p[re]dict. p[ri]-
sonam ibidem felonice fregit, ac extra custodiam dicti
constabularij tunc ibidem contra eius voluntatem felo-
nicē euasit contra pacem dicti dom. reg. nostri nunc, co-
ronam & dignitatem suas, necnon contra formam statuti
in huiusmodi casu prouisi ac editi.

*For a voluntarie escape of a felon, out
of the gaole.*

Prætores pro Domino Rege præsentant, quod ubi quidam A.B. nuper de C. in dicto comitatu Shooman, sexto die Maij, anno regni Domini nostri Iacobi, De gratia Angliæ, Franciæ, et Hybernæ Regis, fidei defensoris, &c. secundo, & Scotiæ tricesimo septimo, apud C. prædict in comitatu prædicto pro suspicionem cuiusdam felonix, viz. vnius equi, coloris albi, precij xl. solid. finicè per eundem A.B. ut dicebatur, capti & abducti, arreftatus est & captus, & coram T. F. vno Iusticiario dicti domini reg. ad pacem in dicto comitatu confirmandum assignatorum ductus & superinde postea, viz. octavo die, anno & loco, cuidam B.D. in com. præd. Prætorum custodi Gaolæ dicti domini Regis apud M. in dicto comitatu existenti sub custodia I.F. armigeri, ad tunc in comitis comitatus prædicti, & custodis Gaolæ prædicti per quoddam præceptum de Mittimus dicti T.F. Iustarii traditus est, & commissus, ad salvo & secure custodendum in Gaola prædicta donec idem A.B. inde foret legitimo modo deliberatus, præfatus tamen I.F. (tunc vicecomes) postea, viz. 7. die dicti mensis Maij anno prædicto, apud M. prædict. in comitat. prædict. præfatus A.B. ad tunc et ibidem in dictis gaola & custodia existentem, a prædictis custodia & Gaola, ad tunc & ibidem euadere & ad largi ire voluntarie & felonice permittit, contra pacem dicti dom. reg. coronam & dignitatem suam.

And for a negligent escape, the underlines may be changed thus, pro defectu bonæ & diligenti custodiæ, euadere, et ad largum quo voluit ire negligenter permittit, contra pacem, &c.

Precedents.

Vpon a Rebellion assembly.

Vratores pro Domino Rege presentant, quod prim die
mensis Octobris, anno regni domini nostri Iacobi, Dei
gratia anglie, Francie, & Hybernice Regis fidei defensoris,
&c. secund, et Scotie tricesimo octauo, A.B.C.D.E.F.
And so reciting thirten or fourteen persons in all, with
their additions of occupations and dwellings, apud
quendam locum infra parochiam de O. in Com. predict.
Anglice vocatum *le old Court*, inter horas decimam &
undecimam ante meridiem eiusdem diei. vi & armis, tam
mussis quam defensis, videlicet, gladijs, pugionibus,
haculis, arcubus, sagittis, tunicis ferreis, et tormentis, seip-
sos congregauerunt et assemblauerunt; ac tunc et ibidem
iurauerunt, conati sunt, et practicauerunt, vi & armis,
illegitime, et ex autoritate propria, secare, et prorsus e-
uerrere, prostrernere ac destruere quoddam caput vnius
aque ductus, Anglice vocatum *a Conduit head*, tunc ibi-
dem in fundo cuiusdam R.S. de O. pred. in comitat. pred.
generosi existens et cursum aque in ipso habens, ea in-
tentione, vt idem caput aque ductus pred. ex tunc aper-
tum et vacuum remaneret ac iaceret. Et vltterius quod
super querimonias inde factas eorum T.W. vna Iusticiari-
um pacis dicti domini regis in comitatu predicto, om-
nes et singuli predicti A.B.C.D.E.F. &c. tunc et ibidem
per eundem Iusticiarium requisiti sunt ac iussi (per pro-
clamationem in nomine dicti domini Regis tunc ibidem
per eum palam factam) ad habitationes, loca, et domos
sue, unde venerant, se inde in pacifico modo retrahere,
terram discedere, et reuerti; quare quidem proclamatio
tunc ibidem modo et forma sequentibus habita et facta
est, vt pred. T.W. Iusticiarius tunc ibidem fecit alta voce
vni *Opes* ac tunc ibidem immediate hæc verba An-
glica sequentia palam alta voce pronunciauit, dicens
scilicet;

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The King our Soueraigne Lord chargeth and commandeth all persons (being assembled) immediately to disperse themselves, and peaceably to depart to their habitations, or to their lawfull businesse upon the paines coneyned in the Act lately made against unlawfull and rebellious assemblies: And God save the King.

Et ulterius Iuratores predicti dicunt, qd non obstante dicta proclamatione modo & forma predict. per predictum Iusticiarium tunc ibidem facta et habita, iidem tam omnes & singuli predicti A.B.C.D.E.F.&c. in dicto loco vocato **le old Court**, infra parochiam de O. pred. in dicto comitatu per spatium duarum horarum, immediate et continue post dictam proclamationem, sic ut pferretur facti et habitati, sequentium, seditiose et felonice insimul remanserunt et continuaverunt, In dicti domini reg. contemptum, ac contra pacem, coronam, et dignitatem suam, necnon contra formam dispersonum statutorum in huiusmodi casu prouisorum et editorum.

For unlawfull purveyance.

Iuratores pro domini rege presentant qd primo die Iulij, anno regni dicti dom. nostri Iacobi, Dei gratia Anglij, Francij, & Hrb. Regis fidei defensoris &c. a. & Scotij 37. quidem H.W. nuper de G. in dicto comit. **Cipier**, apud C. in comitatu pred. prae se ferens, & asserens se esse unum ex prouisorib. hospitij dicti domini reg. dicto primo die, anno suprad. (quo quidem tempore nullum ostendit aut secum habuit Warrantum sub magno aut paruo sigillo dicti domini reg.) apud C. predict. in comit. predicto tres oues castratas (Anglice vocatas **Wethers**) pretij xli. de bonis & catallis I.S. de C. predict. in dicto comitatu **Proman**, tunc ibidem existentes inuentas, sub colore

Precedenti.

more purueiancie pro dicto hospicio, illegitime ac falso-
dice cepit, & abduxit, contra pacem dicti domini reg, ac
contra formam diuersorum statutorum in huiusmodi ca-
siprovisorum & editorum.

For a trespass of Batterie and Mayhem.

Plures presentant pro Domino rege, quod tertio die
Septembris, anno regni dicti domini nostri Iacobi, Dei
gratia Angliæ, Franciæ, et Hybernæ Regis fidei defensor-
is, &c. 1. et Scotiæ 38. A.B. de C. in comitatu prædicto,
C. 107, vi & armis, quoddam clausum cuiusdam I. S. a-
pod C. prædicti in comitatu prædicto, fregit & intrauit, &
in dictum I. S. tunc ibidem in pace Dei & dicti dom. reg,
existentem, insultum & affraiam fecit, ac eum gladio di-
stricto, ad valentiam decem solidorum quem dictus A. B.
tunc ibidem in leua manu sua tenuit, eundem I. S. crude-
liter verberauit, ac dextrum pollicem dicti I. S. tunc ibi-
dem vno ictu amputauit, ac sic eundem I. S. nequiter &
felonice tunc ibidem mayhemauit, ad graue incommo-
dum ipsius I. S. ac contra pacem dicti dom. reg. nostri co-
ronam & dignitatem suam.

For a Champertie.

Plures presentant pro Domino Rege, quod I. C. T.
[Cael. P. de Q. in dicto comitatu Proven, ac alij (de
consideratione & couina prædictorum I. C. T. C. & I.
P. existente) quoddam placitum assise nouæ disseisinæ,
quod nuper summonitum fuit in curia dicti dom. Regis,
eoram dilectis & fidelibus dicti dom. Regis, I. S. & I. K. &
alij nuper Iusticiarijs ipsius dom. Regis, ad assisam il-
lum capiendam assignatis, per Breue ipsius domini re-
gis inter W. S. querentem & I. H. tenentem de libero
quodam tenemento in N. & S. in comitatu prædicto. vi-
delicet, pro medietate inde sibi & hæredibus suis im-
perpetuum, videlicet, pro summa centum libr. sterlin-

Precedenti.

gor. in pecunia numerata in hac parte habend', per com-
mentionem inde inter predictum N.S. et prefatos I.C.
T.C. et I.P. vicesimo die mensis Augusti, anno regni dicti
domini nostri Iacobi Dei gratia Angliz, Franciz & Hy-
berniz Regis, fidei defensoris, &c. 1. & Scotie 38. apud O.
prædict. in prædict. comitatu factam, pro pred. W. S. con-
tra prefatum I.H. dictis die, anno, et loco assumptis ma-
nutendum, et manutenuerunt: in magnam dicti dom.
reg. contemptum, ac contra formam diversorum statutu-
rum huius regni sui Angliz, in huiusmodi casu prouisorii
&c. editorum.

*For a Treffasse of depasturing Cows
and Grasse.*

INquiratur pro Domino Rege, si A.B. de C. in dicto co-
mitatu D.oman, 20. die mensis Augusti, anno reg. dicti
Domini nostri Iacobi Dei gratia Angliz, Franciz, & Hy-
berniz Reg. fidei defensoris, &c. secundo, & Scotie vice-
simo octauo, quoddam clausum cuiusdam I. S. apud C.
prædict. in comitatu prædict. vulgariter vocatum (Cote
lease) vi et armis fregit ac intrauit, ac herbas, et bladi-
triticea ipsius I. S. tunc ibidem crescentia, ad valentiam
xx s. cum quibusdam bobus, & bidentibus ipsius A.B. tunc
ibidem depastus est ac consumpsit. Necnon solum & fru-
dum ipsius I. S. tunc ibid. cum quodam aratro subuerit,
qd prædict. I. S. omne commodum et proficuum dicti
sui, per longum tempus postea amisit, ac alia dampna et
enormia prædict. I. S. tunc ibidem intulit, ad graue dam-
num ipsius I. S. ac contra pacem dicti domini nostri reg.
nunc coronam & dignitatem suam.

For Embracerie of Iurers.

Iuratores præsentant pro domino Rege, quod A.B.C.D.
E.F. et G.H. &c. complices I.K. naming all the Iurers
&c. iurat in quadam Assisa nouæ dissensionis (quæ nuper
summonit)

Precedents.

monita fuit coram dilectis et fidelibus dicti domini regis I.B.I.C. et N.C. nuper iusticiarijs dicti domini regis nunc ad assisam illam capiendam, per breue ipsius domini regis inter W.S. et I.H. de tenementis in N. in comitatu predicto, et postmodum (viz. die Lunæ &c. anno &c. coram prefatis I.B.I.C. &c. apud M. in comitatu predicto per breue ipsius domini regis si non omnes capt. possit.) pro veredicto suo in hac parte dicendo de prefato I.H. diversas pecuniarum summas, viz. A.B. de predicto I.H. xl. s. et alia dona, scilicet panem, carnes, et vinum ad valentium xx. s. Et predicto I.K. (Imbraciatum eiusdem assise ad eandem ducend. et procurand.) de prænominat. W.S. sum. decem marcarum, vicesimo die Augusti, anno regni dicti domini nostri Iacobi, Dei gratia Angliæ, Franciæ, et Hybernici Regis fidei defensoris, &c. 1. et Scotiæ 38. apud M. prædict. in comitatu predicto illegitime ceperunt. In dicti domini Regis nunc contemptum, ac contra formam cuiusdam Statuti in Parlamento Domini Edwardi olim Regis Angliæ tertii, anno regni sui tricesimo octavo tento, in huiusmodi casu prouisi ac editi.

Against a common Barrector.

Turbatores pro Domino Rege præsentant, quod A.B. de C. in dicto comitatu Cantuariæ, secundo die Octobris, anno regni dicti domini nostri Iacobi, Dei gratia Angliæ, Franciæ, et Hibernici Regis, fidei defensoris &c. 1. et Scotiæ 38. apud C. predict. in comitatu predicto fuit, et adhuc est communis Barrectator, et pacts dicti domini regis perturbator assiduus et publicus, necnon communis ac turbulentus calumniator, conuiciator, pugnat. et litium inter vicinos suos seminator, adeo vt diversas lites, controuersias, necnon iurgia, et pugnas adtunc ibidem et alibi in dicto comitatu inter diversos dicti domini Regis ligeos et subditos

Precedenti.

ditos mouit, procurauit, & excitauit: in magnam dei
Domini Regis pacis perturbationem, ac contra for-
mam diuersorum ordinationum ac stat' huius regni
Angliz, in huiusmodi causa antehac prouisorum ac ed-
torum.

For Extortion in a Coroner.

Inquiratur pro domino Rege, si A. C. de B. in dicto co-
mitatu generosus, 6. die Iunij, anno regni domini
nostri Iacobi, Dei gratia Angliz, Franciz, & Hibernie
Regis, fidei defensoris &c. 1. & Scotiz 37. vnus coronator
dicti domini Regis, in dicto comitatu adtunc existens
apud B. prredictam in comitatu prredicto colore officij
prredicti. extorsit cepit pro feodo suo 20. solid. de quo-
dam I. S. in dicto comitatu generoso, in, & pro functione
& executione officij sui prredicti, super visum corporis
R. N. nuper de B. prredicta in comitatu prredicto (qui
quidem R. N. quinto die dicti mensis Iunij, anno supra-
dicto, apud B. prredicti. in comitatu prredicti casu ab equo
suo, per infortunium fuit occisus) in magnum dicti Do-
mini Regis contemptum, ac contra formam statuti in
parlamento Domini Henrici nuper Regis Angliz octa-
ui tento, anno regni sui primo, in huiusmodi casu prout
ac editi.

For Extortion in a Bishops Scribe or Register.

Iuratores presentant pro domino rege, quod A. B. de
I. C. in dicto comitatu generosus, primo die mensis Au-
gusti, anno regni dicti domini nostri Iacobi, Dei gratia
Angliz, Franciz, & Hyberniz Regis fidei defensoris &c.
secundo, & Scotiz 38. adtunc Scriba, sine Registrarius,
reuerend. in Christo patris, D. tunc permissione diuina
Hagustaldensis Episcopi existens, apud M. in comitatu
prredicto, colore officij sui prredicti extorsit ac iniuri-
ose cepit de quodam I. S. de M. prredicta in dicto comi-
tu.

Precedents.

Substantum, 2.1. legalis monetæ Angliæ pro feodo ipsius A.B. pro scriptione probationis unius testamenti cuiusdam R.N. (qui quidem R.N. apud M. predictam infra decem diebus dicti D. Episcopi xxiii. die Julij, anno supradicto mortuus est) ubi reuera idem testamentum tunc ibidem allatum est ad dictum Scribam (sive Regist.) per dictum IS in pergameno scriptum: et ubi omnia bona, lura, & credita dicti R. N. dicto tempore dictæ mortis suæ non excedebant summam 5. li. & ubi etiam tota dicta scriptio probationis testamenti predicti. per prefat. scribam (sive Regist.) sic ut præfertur facta, non continebatur in se xl. lineas, quarum quæque linea erat decem pollicium in longitudine. in magnum dicti domini Reg. contemptum ac contra formam cuiusdam statuti in parlamento dom. Henr. super reg. Angliæ 8. tento anno regni sui 21. in huiusmodi casu prouisi ac editi.

For a Riotous affray at the Quarter Sessions of the Peace.

Utriusque præsentant pro dom. Rege, quod 8. die Octob. anno regni dicti dom. nostri Iacobi, Dei gratia Angliæ, Franciæ, & Hib. regis fidei defensoris, &c. 2. & Scotiæ 3. apud M. in com. præd. tempore generalis Sessionis pacis pro dicto com. tunc ibidem tentæ, & H.C. milite, & socijs suis iusticiarijs dicti dom. regis, ad pacem in dicto comitatu conservandam assignatis tunc ibidem existentibus, & in plena curia sedentibus, quidam A.B.C.D.E.F.G.H. & I.K. de S. in comitatu predicto Generosi, aggregati si-
bi nonnullis alijs pacis dicti dom. reg. perturbatoribus ignotis, ad numerum xx. hominum, vi et arm. viz. gladijs & pugionib. armat. illicite, routose et riotose sese assem-
blauerunt ac int se insultu et affraus maximâ tunc ibidem fecerunt, sese inuicem verberantes & vulnerat, in magis terrore

Precedens.

tam dictorum Iusticiariorum tunc ibidem in curia sedentium, quam totius populi dicti domini nostri reg. ad dictam sessionem pacis tunc ibidem convenientium, ac contra pacem, coronam, et dignitatem dicti Domini Regis nostri.

For giving of a Linerie.

I Vratores pro domino rege presentant, quod T. B. de C. in dicto comitatu armig. secundo die Septembris, anno regni dicti dom. nostri Iacobi, Dei gratia Angliz, Franciz, et Hiberniz reg. fidei defensoris &c. secundo, et Scotiz, tricesimo octauo, apud C. prxd. in com. prxdict. quasdam liberatas vestur, viz. cuidam A. B. de C. prxdict. in com. prxdicto *Peoman*, tres vlnas panni lanci coloris veneti, pretij xx. s. et E. D. de E. in dicto comitatu *Peoman*, alias tres vlnas similis panni lanci, eorundem coloris et pretij, ad duas seperales tunicas pro prefatis A. B. et C. D. inde faciendas, dedit a c. distribuit: vbi reuera prefati A. B. et C. D. aut eorum alter, nunquam fuerant, aut fuit, domestici seruientes, aut domesticus seruientis, officarijs, siue officariis, baliui, siue balliuis dicti T. B. aut de consilio ipsius T. B. in vna lege siue altera eruditi vel eruditus: In magnum dicti domini regis contemptum, ac contra formam diuersorum statutorum in huiusmodi casu pronisorum et editorum.

For recining and vsing of a Linerie.

I Vratores pro domino rege presentant, quod A. B. de C. in comitatu prxd. *Peoman*, vnam liberatam panni, videlicet tres vlnas panni lanci coloris veneti vocati, Anglice *Witchet*, ad valentiam xx. s. ad tunicam inde sibi faciendam de T. B. de C. prxd. in comitatu prxdicto armigero, apud C. prxdictam in dicto comitatu, secundo die Augusti, anno regni dicti domini nostri Iacobi, dei gratia Angliz, Franciz, & Hibernie Regis fidei defensoris &c. & Scotiz 38. recepit: & eadem tunica a dicto die secundo anno

Precedents.

anno supradicto, vsque 3. die mensis Septembris, anno
supradicto, apud C. prædict. & alibi in diuersis locis infra
comitatum prædict. vñs est: vbi idem A.B. dicto tempore
receptionis liberatæ præd. aut vnquam postea non fuit
familiaris, officarijs, aut de consilio dicti T.B. in vna lege
aut altera eruditus: in magnum dicti domini Regis con-
sumptum, ac contra formam diuersorum statutorum in
huiusmodi casu ante hac Promisorum & editorum.

For Vñrie.

Vñres pro domino rege presentant, qd vbi A.B. de C.
in dicto comitatu *Mercer*, primo die Octobris, anno
regni dicti domini nostri Iacobi, dei gratia Anglie, Fran-
cie & Hibernie regis fidei defensoris &c. & Scotie 38.
quid C. prædict. in dicto comitatu dedisset & accom-
modasset cuid. D.E. de C. præd. in dicto com. *Shumaker*
summam xx.li. in pecunijs numeratis de pecunijs dicti A.
& in ea intentione, vt idem D.E. xx.li. eidem A.B. redde-
re & resolveret primo die Aprilis tunc proximo futuro:
idem A.B. ad tunc & ibidem iniuste cepit & habuit p̄ ma-
nibus de prænominato D.E. xxvj.s. in lucro, vsura & pro-
fitu pro differendo, & dando diem solutionis sic vt præ-
ferat earundem xx.li. a dicto primo die Octobris anno
supradict. vsque dict. primum diem Aprilis tunc proxime
sequentem, qui quidem xxvj.s. (modo & forma prædictis
per manibus capti & habiti) multo excedunt & superant
summam & proportionem x.li. pro C.li. pro vno an. integro
accommodand. ad damnum non mediocre ipsius D.E. ac
in contemptum dicti domini regis nunc, necnon contra
formam diuersorum Statutorum in huiusmodi casu pro-
misorum & editorum.

Against

Precedents.

*Against Bakers conspiring to make
small Bread.*

Iuratores pro domino Rege presentant, quod A.B.C.D.
E.F.& G.H. de M. in dicto Comit. pistorum 1. die mensis
Octobris, anno regni dicti dom. nostri Iacobi, Dei gratia
Anglie, Francie, & Hybernice Regis fidei defensoris, &c.
secund', et Scotie tricesimo octavo, apud M. predicti in
comitat. pred. insimul conuenerunt, conspirauerunt ac
mutuo inter se promiserunt, quod panis denarij de inter-
pro frumento (per eos seu eorum aliquem, tum deinceps
faciendus ac vendendus) non amplius quam 2. li. & 6. va-
cias Trolz ponderis habebit & ponderabit, quodcumque
imposterum foret valius quarterij frumenti precium: in
dicti domini nostri reg. nunc contemptum, ac in extremis
pauperum dicti dom. regis subditorum grauamen, necnon
contra formam diuersorum statutorum in huiusmodi cau-
Prouisorum & editorum.

*For a common Bridge that is in dange-
rous decay.*

Iuratores pro domino rege presentant, quod pont. pub-
licus & communis, situs in alta regia via sup flumen de
Swerthway, infra parochiam d. A. in com. pred. (vulgariter
dict. Willeford bydge) est et p aliquot annos iam prima
lapsos fuit valde ruinosus, & in maximo decalu ob defectum
reparationis, adeo ut subditi dicti dom. regis in, sup,
trans, vel ultra dictu potem, p se, vel cum eoru equis, bo-
gis, aut carugijs, ire, redire, aut transire, sine magno viis
discrimine non audent aut possunt, ad commune noci-
mentum omnium vicinorum, & compatriatorum in dicto
comitat. habitantium, quorum interest ratione negotio-
rum

Precedens.

nam suorum, illac transire: Et ulterius quod prorsus nescitur, quæ personæ, quæve terræ, tenementa, aut corpora corporata, & politica, eundem pontem aut aliquam inde parcellam, ex iure, aut ex antiqua consuetudine, rescire, & reparare debent, aut consueverunt.

*For a Rogue, or Vagabond, and
his reliever.*

Vratores pro Domino Rege præsentant quod A. B. nuper de C. in dicto comitatu **Seauelman**, ætatis septem annorum & amplius, de corpore sano, valente, potente, inque ad laborandum habili existens, nullam autem habens terram, aut villum magistrum, nec aliqua utens hinc merchandiza, arte, vel mysterio unde sibi victum parare posset, decimo die Decembris, anno regni domini nostri Iacobi, Dei gratia Angliæ, Franciæ, & Hyberniæ reg. fidei defensoris, &c. 1. & Scotiæ 38. apud E. infra hundredum de W. in comitatu prædicto, & multis alijs in locis dicti comitatus, illac passim vagatus est mendicans, ac per W. P. de E. prædicta in dicto comitatu **Proman**, consularium dicti hundredi de W. (in quo sita est villa de E. prædicta) postea, viz. undecimo die mēsis Ianuarii, anno supradicto apud E. prædict. in comitatu prædicto inventus est vagans, & mendicans, ac per eundem consularium tunc ibidem deprehensus est inordinate se preens, tanquam vagabundus, & mendicus validus contra pacem dict. dom. reg. ac contra formam diversorum statutorum inde provisorum & editorum. Et ulterius, quod G. H. de E. prædict. in dicto comit. **Proman**, sciens præfatum A. B. modo & forma præd. vagantem & mendicantem, eundem tamen A. B. dicto decimo die anno supradicto in domo ipsius G. H. mansionali apud E. præd. in com. præd. hospitavit, & eidem A. B. tunc ibidem panem & potum voluntarie dedit, in contemptum dicti dom. Reg. ac contra formam statutorum præd.

For

Precedenti.

*For keeping a Tipling house without
Licence.*

Iuratores pro domino rege presentant, quod A. B. de C.
in dicto comitatu **Peoman**, vicesimo die mensis Octob.
Anno regni dicti domini nostri Iacobi, Dei gratia Anglie
Francie et Hibernie reg. fidei defensoris, &c. 1. et Scotie
38. et continue multis diebus postea videlicet, vsque pri-
mum diem Nouembris, anno supradicto apud C. pre-
dictam in comitatu predicto obstinate, atque ex autoritate pro-
pria ipsius A. B. et sine vlla iusticiariorum pacis dicti do-
mini regis in comitatu predicto. admissione aut allocu-
tione, assumpsit super se custodire, et custodiuit vniam
communem Tabernam, vocat. Anglice a **common Tipling
house**, et ibidem dicto vicesimo die, et dictis diebus
postea, communiter et publice vendidit ceruissiam, panem
et potum, Anglice dictum **Bere**, diuersis dicti domini
legibus et subditis In dicti domini reg. contemptum, ac co-
tra formam cuiusdam statuti in Parlamento dom. Ed-
wardi super reg. Anglie sexti, tento apud Westmonasterium,
anno regni dicti dom. Edw. 5. in huiusmodi casu penitus
ac editi.

*For keeping unlawfull play and for play-
ing thereat.*

Iuratores pro domino Rege presentant, quod A. B. de C.
in dicto comitat. **Tipler**, 1. die Iunij, anno regni dicti
Domini nostri Iacobi, Dei gratia Anglie, Francie, et Hi-
bernice Regis fidei defensoris, &c. secundo. & Scotie vi-
cesimo septimo, et continue post dictum diem anno
supradicto, vsque primum diem mensis Iulij, anno supra-
dicto apud C. predictam in Comitatu predicto quendam
communem locum iaciendi globos (vocat. Anglice
com.)

Precedenti.

(nomen *Bolting Blay*) pro lucro ipsius A.B. proprio
& ad ludendum tunc ibidem cum globis (anglice vocatis
Bolles) illicite tenuit, custodiuit, ac mansuenuit, con-
tra formam cuiusdam statuti in parlamento dom. Hen-
rici nuper Regis Angliz 8. tento anno regni sui 32. in
huiusmodi casu prouisi ac editi: Et quodam S. de C. præd.
in dicto comit. *Labourer*, & tres alie personæ ignote, di-
cto secundo die Iunij anno supradicto dictum commune
locum visitauerunt, ac tunc ibidem cum globis, Anglice
vocatis *Bolles*, infimul & illicite luserunt contra for-
mam statuti prædicti.

For hunting Comers.

Viresores pro domino Rege presentant, quod A.B. de C.
in dicto comitatu *Labourer*, (homo laicus existens)
iussu Sancti Bartholomæi Apostoli, anno regni Domini
nobi Jacobi, Dei gratia Angliz, Franciz, & Hiberniz
regis fidei defensoris, &c. secundo, & Scotiz tricesimo
anno, continue vsque in hunc presentem diem, apud
C. prædict. in comitat. predicto, habuit & custodiuit
vnum canem græcum Anglice vocatum & *Greyhound*,
ad venandum & chaceandum leepres & cuniculos: Et
quod idem A. B. vicesimo septimo die mensis Augusti,
anno supradicto, vnum cuniculum, valoris quatuor de-
narij in quodam clauso I.S. de C: prædicta in dicto co-
mit. generosi, vocato *the Contegarth*, infra parochiam
de C. præd. in dicto comit. existent. cum dicto cane vena-
uit, & occidit, vbi idem A. B. nunquam habuit terras
aut tenementa, ad clarum annum valorem quadraginta
solidorum. In dicti domini Regis contempum, ac contra
formam cuiusdam statuti in Parlamento domini Richar-
di 2. Regis Angliz 2. tento anno Regni sui 13. in hoc
casu prouisi ac editi.

Precedenti.

*For vsing the Arte of Mercerie against
the Statute.*

Iuratores pro domino Rege presentant, quod A. B. de
C. in dicto Comitatu *Mercer*, vicesimo die mensis Maij
anno regni dicti domini nostri Iacobi, Dei gratia Angliæ,
Franciæ, & Hiberniæ Regis fidei defensoris, &c. & Sco-
tiæ 37. & multis alijs diebus continue post dictum diem
per spacium duorum mensium, videlicet vsq; vicesimum
diem Iulij, anno supradicto, apud C. prædictam in comi-
tatu prædicto, quandam artem, siue mysterium, Anglice
dicti. *Merceris*, illicite pro lucro suo proprio vsauit &
exercuit: tunc ibidem vendend. diuersas res siue merces,
Anglice vocatis *Merceris wares*, diuersis dicti domini
nostri regis legibus & subditis, vbi reuera idem A. B. nun-
quam fuit in dicta arte siue mysterio educatus tanquam
apprenticius per spacium septem annorum, nec idem A.
B. eandem artem, siue mysterium prædictum, vquam
ante prædictum vicesimum diem, anno supradicto vsa-
uerit, aut exercuerit in magnam dicti domini nostri re-
gis contemptum, ac contra formam cuiusdam statuti in
Parlamento domini. Elizab. nuper reginæ Angliæ, teno
apud Westmonasterium anno regni sui quinto, in hoc
casu prouisi ac editi.

For regrating of Fish and Butter.

Iuratores pro Domino Rege presentant, quod A. B. de
C. in dicto comitatu *Mercer*, 10. die Iulij, anno regni
dicti domini nostri Iacobi, Dei gratia Angliæ, Franciæ,
& Hybernæ Regis fidei defensoris, &c. secundo, & Sco-
tiæ tricesimo septimo, apud C. prædictam in comi-
tatu prædicto in quodam mercatu tunc ibidem tento pro
solid. moneta emit, regratauit, obtinuit, & nactus est in
possessionem & manus suas, decem paria piscium (Ang-
lice dicta *ten couples of Kings*,) & tria vasa butiri salis
(Ang-
(Ang-)

Precedents.

(Anglice vocat. A. the firkins of salt butter) de quodā
L. qui prædicta decem paria piscium, ac dicta tria vasa
vendi ad eundem mercatum vt ea ad tunc ibidem venderet
admississet: Et qd immediate postea, scz. dict. 20. die anno
indictio, idem A. B. in dict. eodem pleno mercatu tunc
sub apud C. prædict. in dict. comitatu tento, eadē omnia
paria piscium, ac butiri vasa, cuidam H. R. pro 16 s.
lignis moneta dicti dom. reg. huius regni sui Anglie, illi
concedidit, in magnam reipublice damni ac contra for-
as diversorum statutorum huius reg. Anglie, in huius-
modi casu prouisorum & edictorum.

For not working upon the Highways.

Item pro domino rege præf. tant, qd vbi die Martis
14. kalendas Pasche, iam vltima preterit, scz. 7. die men-
sis Aprilis, anno regni dicti dom. nostri Iacobi, Dei gratia
Anglie, Francie, & Hib. Reg. fidei defensor. &c. 2. & Scot. 37.
Al. tunc constabularius villæ de D. in dicto comitatu &
D. & F. G. tum gardiani Ecclesie parochialis de C. 6 s.
la munit. prædicto existentes, vocatis ad se multis alijs
parochianis dictæ parochie de C. tunc & ibid. elegerunt
quod I. S. & R. N. duas honestas eiusd. parochie personas,
a se priores pro vno anno integro tunc prox. sequen-
ti, pro emendatione & reparatione altarum regiarum via-
rum dictam parochiam de C. ducentium a villis merca-
torum ad villas mercatorias: ac etiam tunc ibid. nomina-
uerunt & appunctauerunt sex dies, viz. 1. 2. 3. 4. 5. & 6. dies
mensis tunc proxime sequentis, pro dicta emenda-
tione dictarum viarum, & nominatim pro emendatione illi-
arum regie ibid. quæ est inter &c. atque de eisd. 6. dieb.
per ea vt præfertur nominatis, & appunctatis) dede-
runt paulo postea, scz. die dominico dict. Pasche, tunc pri-

Precedens.

me sequenti, publicam noticiam in dicta ecclesia parochiali: quidam tamen T. W. tum & adhuc parochiani de C. predicta in comitatu predicto existens, actum habens & occupans in dicta parochia de C. in comitat. predicto, unam integram carucatam terrae arabilis (Anglice dicti *a ploughland*) nullum dictis primo secundo & quarto diebus dicti mensis Maij anno supradicto prorsus inuenit, aut misit currum instructum (Anglice dictum *a sowing cart furnished*) equis, bobus, aut alijs animalibus, & necessarijs, secundum morem patrie ibidem: nec vllos habiles homines, erga emendationem & reparationem dictarum viarum aut earum aliquam, siue aliquam inde parcelam: sed inde tunc ibidem voluntarie fecit defactam: in dicti dom. reg. contempt, ac contra formam diuersorum statutorum in huiusmodi casu Prouisorum & edictorum.

Against a Goldsmith.

IVratores pro domino rege presentant, quod A.B. de C. in dict. comit. Aurifaber. 2. die Iunij, Anno regni dicti domini nostri Iacobi, dei gratia Anglie Francie et Hibernie reg. fidei defensoris, &c. 2. et Scotie 37. apud S. predictam in Comitatu predicto quoddam manubrium pignoris ferreum (Anglice dictum *a dagger hilt of iron*) cuiusdam I.D. de S. pred. in comitatu predicto. Pretium, valorem 2. s. auro purissimo ad valentiam 5. s. destruxit, Anglice *did gild both the finest gold*, in magnum reipublice detrimentum, ac contra formam cuiusdam statuti in parlamento domini Henrici. nuper Regis Anglie quinti, anno regni sui octavo, in huiusmodi casu provisum editi.

For taking Pheasants and Partridges.

Venerabiles pro domino rege presentant, qd W. G. de S. in dicto comitatu Labourer, circiter horam decimam antemeridie 10. diei Augusti, anno regni dicti dom. n. Jacobi, Dei gratia Anglie, Francie, & Hib. Regis fidei defensoris &c. 3. & Scotie 38. in quodam loco infra parochiam de S. pred in comitatu pred (vocat vulgariter the [unc] fista) qui quidem locus tunc fuit, & adhuc est liberament A. B. de S. predict in dicto comitatu generosi necunquam fuit in, aut de Warren ipsius W. G. ppria) Phasianos & decem Perdices cum quibusdam retibus, & alijs ingenijs (valoris 4. s.) tunc ibidem cepit, occidit, & asportavit, sine aliquibus assensu, aggremento, aut speciali licentia dicti A. B. in hac parte habitis aut obtentis in dicti dom. reg. nunc contemptum, ac contra formam statuti in parlamento dom. H. nuper reg. Anglie 7. tento in anno regni sui 11. in huiusmodi casu provisum ac editi.

For not keeping watch in a Towne.

Venerabiles pro domino Rege presentant, quod a decimo die Maii, anno regni dicti domini nostri Jacobi, Dei gratia Anglie, Francie & Hibernie Regis fidei defensoris, &c. 3. & Scotie 37. vsque vicesimum diem mensis illius anno supradicto, homines & inhabitantes villae de C. in comitatu predicto, nullas vigilias a solis occasu vsq; ad solis ortum, in dicta villa de C. in com. p. per aliquos dies fecerunt, aut custodiuerunt, prout de iure & antiqua consuetudine facere debent & solebant, in dicti dom. reg. nunc contemptum, ac contra formam cuiusdam statuti in Parlamento domini Edw. olim Regis Anglie primi, apud Winton, anno regni sui tertio decimo tento, in huiusmodi casu provisum ac editi.

For not keeping watch at the Sea side.

Iuratores pro domino Rege presentant, qd ubi homines & inhabitantes hundredi de F. in comitatu predicto requiritur (videlicet ante annum regni domini Henr. Regis Angliæ quarti quintum) quasdam maritimas minutas vigilias, Anglice vocatas *Sea watch* tempore belli per costeram maris in quodam loco (vocato *Sandgate*) in dicto comitatu, per quatuor homines singulis diebus (a tempore in cuius contrarium memoria hominum tunc non existeret) custodire debebant & solebant: dicti tamen hundredi de F. homines & inhabitantes nunc tempore nuper belli, viz. a 14. die Iunii, anno regni domini nostri Iacobi, dei gratia Angliæ, Franciæ & Hiberniæ Regis fidei defensoris, &c. secundo & Scotiæ 37. que tricesimum primum diem diei mensis Iunii, anno supradicto predictas vigilias apud *Sandgate* predictam modo & forma predictis, facere, & custodire voluntate prætermiserunt & neglexerunt, ac in eisdem vigiliis tunc ibidem (sic ut præfertur faciendis ac custodiendis) voluntariam fecerunt defaultam, in dicti domini Regis contemptum, ac huius regni sui Angliæ delictum non modicum, necnon contra formam statuti in parlamento dicti Domini Henrici nuper Regis Angliæ quarti, 10mo anno regni sui quinto predicto, in huiusmodi casu positi ac editi.

*For converting a house to a Cottage, and
for upholding it.*

Iuratores pro Domino Rege presentant, quod 14. die Iulij, Anno regni domini nostri Iacobi 2. et Scotiæ 37. quidam Io. Thurstone de H. in dicto comit. Calcestris, australem partem cuiusdam dom. mansionalis tunc & modo ex-

Processus.

domus in H. præd. in com. prædict. viz. vnam aulam, & 2. miteras ordinavit & convertit, ad, & in cottagium pro habitatione, viz. ut quidam Anth. Burton de H. præd. in com. prædicto Scissor, eadem australi parte dicti domus in habitatione sua vteretur: qui quidem A.B. dictum illud cottagiū modo inhabitat. Vbi reuera dictus I. T. nunquam assignavit aut adiecit dicto cottagio quatuor acras ultra secundam statutum, siue ordinationem de terris mensurandis computandas, de libero ipsius I. T. tenementum, vel de hæreditate sua, prope dictum cottagium iacentem ac vna cum dicto cottagio continue occupandas, in regnum dicti domini regis contemptum, ac contra formam cuiusdam statuti in Parlamento dom. Eliz. nuper Reg. Angliæ tento apud Westmonasteriū an. regni sui 37. in huiusmodi casu prouti ac editi. Et ulterius præsentavit prædicti: Anth. B. ipsum idem cottagium sicut præsentavit convertersum ac ordinatum a dicto vicefimo quarto die dicti mensis Iulij anno 2. supradicti vsq; ad 2. diem huius presentis mensis Sept. an. 2. supradicti apud Halling voluntarie sustinuit, munutenuit, & continuavit, in regnum dicti domini regis contemptum, & contra formam statuti prædicti.

Writs of Enditements and Presentments: for a further direction where in, the Reader may have recourse to the fifth Chapter of the fourth Booke of the Eirenachia before: in which he shall finde sundry rules for the right framing of them.

Processe vpon Enditements and Presentments taken out of the old Imprinted Booke of the Iustices of Peace.

Note, that the Processe vpon an Enditement of Treason or Felony, is usually.

A Capias.

A Capias aliàs.

An Exigi facias.

And in every such Capias there ought to be the
 proper space betwixt the Date and the Return
 thereof.

The Capias is thus.

Iacobus, Dei gratia Angliæ, Scotiæ, Franciæ, & Hiber-
 niæ Rex fidei defensor, &c. vicecomiti Kanc. salutem.
 Præcipimus tibi, quod non omittas propter aliquam li-
 bertatem in balliua tua, quin eam in grediaris, & capias
 A.B. de C. in dicto comitatu Labourer, & cum salvo co-
 stodiri facias; Ita quod habeas corpus eius coram iudi-
 cibus pacis nostræ, necnon iusticiarijs nostris ad diuersa
 felonias, transgressiones, & alia malefacta in dicto comi-
 tatu tuo perpetrata audiendū & terminandum assigna-
 tis, ad proximam generalem Sessionem pacis communis
 tui post clausum Paschæ proxime futuræ tenendum (ubi-
 cunque in eodem comitatu teneri contigerit) ad respon-
 dendum nobis tunc ibidem de quadam felonia vnde in-
 dictatus existit. Præcipimus etiam tibi, quod non omi-
 tas propter aliquam libertatem in balliua tua prædicta,
 quin diligenter inquiras quæ bona & catalla prædicti
 A.B. habet in balliua tua, & ea in manus nostras seisciri fa-
 cias, vt vltius inde fieri possit, prout de iure, & secun-
 dum legem & consuetudinem regni nostri Angliæ fuerit
 faciendum. Et habeam ibi tunc hoc præceptum. Telle
 H. Co. milite apud M. prædictam in comitatu prædicto
 24. die Februarij, anno regni nostri, &c.

The aliàs Capias.

Iacobus, Dei gratia Angliæ, Scotiæ, Franciæ, & Hiber-
 niæ Rex fidei defensor, &c. vicecomiti Kanc. salutem:
 Præci-

Procesus.

precipimus tibi (sicut alias tibi precipimus) quod non
venias propter aliquam libertatem in Balliu tuam, quin
in ingrediaris, & Capias A. B. de C. in comitat. tuo
Labourer, and so saying the Capias before
saying the dates only.

The Exigifacias.

Jacobus Dei gratia Angliæ, Scotiæ, Franciæ, & Hyber-
niæ Rex fidei defensor, &c. Vicecomiti Kanc. salutem:
precipimus tibi, quod exigifacias A. B. de C. in dicto
com. Labourer, de comitatu in comitatum, quousque
secundum legem & consuetudinem regni nostri Angliæ
eligeretur si non comparuerit, & si comparuerit, tunc e-
um capias & saluo eum custodiri facias, ita quod habeas
corpus eius coram custodibus pacis nostræ, necnon iusti-
carij nostris ad diuersa felonias, transgressiones, & a-
lium malefacta in dicto comitat. perpetrata audiendum &
terminandum assignatis, ad generalem sessionem pacis
comitatus tui proxime post festum Sancti Michaelis Arch-
angeli proxime futuri tenendam (vbiunque in eodem
comitatu teneri contigerit) ad respondendum nobis de
quodam felonia vnde indistatus existit, & vnde tu ipse
mandasti coram præfatis iusticiarijs nostris (tali die &c.)
quod præfatus A. B. non est inuentus in balliu tuam, &
habeas tunc ibi hoc Breue, Teste H. C. milite, apud M.
in com. prædicto sexto die Septembris anno regni nostri
&c. Ad quem diem I. F. armiger, vicecomes comitatus
prædicti, retornauit, quod ad comitatum suum tentum a-
pud P. quarto die Maij. anno reg. Dom. regis nunc, &c.
(and so, the saying the dates of his other four Counties)
prædictus A. B. exactus fuit, & non comparuit, & prop-
terea vniuersus fuit.

Processus.

The common Process upon other Presentments, as being in Felony, not specially set forth in Statute, is in that old booke declared to be, first:

A Venire facias, thus.

Iacobus, Dei gratia Angliæ, Scotiæ, Franciæ, & Hiberniæ Rex fidei defensor, &c. vicecomiti Kanc. salutem. Præcipimus tibi, quod non omittas propter aliquam libertatem in balliua tua, quin venire facias A. B. de C. in dicto comitatu tuo *Pro man*, coram custodibus pacis nostre, necnon Iusticiarijs nostris ad diuersa felonias, transgressiones, & alia malefacta in dicto comitatu perpetratæ audiendum & terminandum assignatis, ad generalem Sessionem pacis comitatus tui proxime post. &c. ad respondendum nobis super quibusdam articulis super ipsum A. B. præsentatis, & habeas ibi tunc hoc præceptum, Teste &c.

And if upon this Venire facias the partie bee returned sufficient, that a Distringas must goe out, and to the same Process infinite, vntill hee come in, which is thus.

Iacobus Dei gratia Angliæ, Scotiæ, Franciæ, & Hiberniæ Rex fidei defensor. &c. Vicecomiti Kanc. salutem. Præcipimus tibi, quod non omittas propter aliquam libertatem in Balliua tua, quin eam ingrediaris & distringas A. B. de C. in comitat. tuo *Pro man*, per omnia terras & tenementa &c. Et quod habeas corpus eius coram præfatis Iusticiarijs, &c. ad respondendum, &c. Teste &c.

But if Nihil habet be returned at the first against him, then a Capias.

Process.

In Alias Capias.

Pluries Capias, which hath no change but the word Pluries for Alias: and lastly, an Exigi facias must be awarded against him.

This is the generall Process: The speciall must be sought for in the eight Chapter of the fourth Book of the Eirenarcha before, and in those Statutes which do namely appoint them.

A Superfedeas to stay the taking of one that is endicted of some Trespass or contempt.

Jacobus, Dei gratia Angliæ, Scotiæ, Franciæ, & Hiberniæ Rex fidei defensor, &c. vicecomiti Kanc. salutem: Quia A. B. de C. in dict. com. **Peoman**, venit in curia nostra coram H. C. milite, & socijs suis custodibus pacis nostræ iusticiis nostris ad diversa felonias, &c. assignatis, apud M. tali die, &c. Et inuenit sufficient manucaptores essendi coram præfatis iusticiarijs ad proximam generalem sessionem pacis in dicto comitatu tenendam, ad respondendum nobis de quibusdam transgressionibus super ipso præsentatis. ideo tibi præcipimus, quod de capiendo præfatum A. B. seu ipsum imprisonando, vel cum ea de causa aliquo modo molestando, omnino superfedeas. Et si cum ea de causa & non alia ceperis, tunc ipsum sine dilacione deliberari facias. Teste præfato H. C. milite apud T. præfatum, die & anno. &c.

A Superfedeas to stay the Exigi facias upon an Endictment of Felonie.

Jacobus, Dei gratia Angliæ, Scotiæ, Franciæ, & Hiberniæ Rex fidei defensor, &c. vicecomiti Kanc. salutem. Quia A. B. de C. in dicto comitatu suo **Peoman**, venit in curiam nostram apud M. tali die &c. coram H. C. milite & socijs suis custodibus pacis nostræ, necnon Inq.

Iusticiarijs &c. ac se reddit prisonar nostrar (occasione
quarundam feloniarum vnde coram eis indictatus est) in
in eadem moretur, sicut nobis constat: Quibus, Quia
inuenit nobis sufficientem manucapcionem essendi coram
præfatis iusticiarijs ad proximam generalem Sessionem
pacis in dicto comitatu tenendam, ad respondendum nobis
de quibusdam felonijis, vnde coram eis indictatus exisset,
ideo tibi præcipimus, quod de ulterius exigendo præfati
A.B. ad aliquem comitatu tuum, vel eum imprisonando, sine
ipsum ea occasione molestando, omnino supersedeas. Et
habeas tibi hoc Breue. Teste, &c.

*Some other formes of Supersedeas there be in that old
booke, proceeding from one Justice of Peace, to which
I doe p̄termitt, because I see not how they be
rented at this day: Nevertheless this W̄cept fol-
lowing I will draw from thence that others may
admitte vpon it.*

For the removing of a petis Constable.

Iacobus Dei gratia &c. vicecom̄ Midd̄ necnon capitali
constabulario villæ hundredi de W. & eorū cuilibet sa-
lūt: quia W.P. & R.S. subconstabularij villæ de C. & E.
(certis de causis nos monentibus) ab officio suo amoveri
& exonerari fecim⁹, Ideo vobis & cuilibet vestrū contin-
gim⁹ & diuisim præcipimus & mandamus, qd I.F. & R. Ma-
omnia & singula eid⁹ officio incumbētia bene & fideliter
exercenda & exequenda (pot ipsi nobis inde respondere
voluerint) iurare faciatis; dictisque W.P. & R.S. similiter
iniungentes, qd ipsi de dicto officio ulterius exercendo &
exequendo nullatenus se intromittant, quousque aliud
nobis habuerint mandat⁹. Et quicquid inde feceritis, lo-
stic, nostris ad pac. nostrā in dicto comit. conservandam
assignatis, ad prox. general' sessionē pacis apud C. in dicto
comit. tenendā, certificetis, hoc præceptū nostrū tūc & ibid⁹
remittentes. Teste T.M. vno lustie. nost. p̄s, tali die &c.

Processus.

*A Writ of Restitution upon the Statute
21.H.8.c.11. to the owner of
goods stolen.*

Rebus dei gratia &c. L.F. Balliu de M. in comitatu no-
stro Kane. generos. salut. Quia I.S. nuper de O. in dicto
com. Labojet nup. indictatus, restatus, & legitimo mo-
do per patriam apud M. in comitatu predicto coram H.
Causilite & socijs suis custodibus pacis nostrae, necnon
iudicijs nostris ad diuersa felonias, transgressiones, &
alia malefacta in dict. com. perpetrata audiendum & ter-
minand assignatis, ratione euidentie per R. H. de L. in co-
mitatu pred. contra eundem I.S. data inuentus fuit cul-
pabilis, de eo quod Idem I.S. 1. die Maij anno regni nostri
apud O. predict. in comitatu predict. duas vaccas (coloris
nerei, ad valentiam 3. li.) de bonis & catallis prefati G. H.
tunc ibidem inuentas felonice cepit & abduxit,
ideo tibi precipimus pariter & mandamus, quod si bona
& catalla predicta, vel aliqua inde parcella, ad manus tu-
as uenerunt, tunc tu bona & catalla pred. eidem G. H.
liberari facias indilate. Testibus pref. H. C. milite, & A.
Baro vno Iustic. predict. apud M. predict. 14. die Sept. anno
regni nostri &c.

*The returne of a Certiorari, sent to remooue an
Endictment, may be thus
fashioned.*

*First upon the backe-side of the Writ of Certio-
rari, endorse these or the like words,*

*Executio istius breuis, patet in quadam Scedula eidem
Regi annexa.*

And

And that Scedule may be thus.

EGO A. B. vnus cuſtodum pacis, ac luſticiariorum docti
regis, ad pacem in dicto comit. Kanc. conſeruandam,
necnon ad diuerſa felonias, transgreſſiones, & alia male-
facta in eodem com. perpetrata audiendum & terminan-
dum assignatorum, virtute iſtius Breui in ibi deliberati,
indictamentum illud (vnde in dicto breui fit mentio) vn-
cum omnibus idem indictamentum tangentibus, in can-
cellariam dicti domini regis, diſtincte & aperte ſub ſigillo
meo certiſico. In cuius rei fidem & teſtimonium, ego pre-
ſatus A. B. hijs preſentibus ſigillum meum appoſui: Da-
tum die menſis anno regni, &c.

*Then take the Second of the Enditment, and cloſe
it within the Scedule, and ſeale them both to-
gether.*

FINIS.

An Appendix, containing sundry Precedents concerning the Peace, and matters within the authoritie of the Iustices of the peace.

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